

MINUTES OF TOWN BOARD MEETING
OF THE TOWN OF BRIGHTON, COUNTY OF
MONROE, NEW YORK, HELD AT THE
BRIGHTON TOWN HALL, 2300 ELMWOOD
AVENUE, ROCHESTER, NEW YORK
June 11, 2014

PRESENT:

Supervisor William Moehle
Councilperson Louise Novros
Councilperson Jason DiPonzio
Councilperson Christopher Werner

Daniel Aman, Town Clerk
Kenneth Gordon, Attorney for the Town
Mark Henderson, Chief of Police
Tim Keef, Commissioner of Public Works
Suzanne Zaso, Director of Finance
Maryann Hussar, Assistant to the Supervisor

MEETING CALLED TO ORDER AT 7:03 PM:

OPEN FORUM:

Joshua Barouth, Monroe County Legislator

APPROVAL OF AGENDA:

Motion by Councilmember Christopher Werner seconded by Councilmember Jason DiPonzio to approve the agenda with the correction of date on Conservation Board re-appointment

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

APPROVE AND FILE TOWN BOARD MEETING MINUTES FOR:

May 14, 2014 Town Board Meeting

Motion by Councilmember Jason DiPonzio seconded by Councilmember Louise Novros to approve and file the aforementioned minutes

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

PUBLIC HEARINGS:

MATTER RE: Proposed Local Law of 2014 entitled "Buckland Park Parking Restrictions Local Law" (see Resolution #1).

Motion by Councilmember Louise Novros seconded by Councilmember Jason DiPonzio that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 1 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

BIDS:

MATTER RE: Approval to solicit for proposals/bids to provide construction services for underground sewer crossings that are part of Phase 3 of the Monroe Community College Sanitary Sewer project (see Resolution #2 and letter dated May 30, 2014 from Michael Guyon, P.E. Town Engineer).

Motion by Councilmember Christopher Werner seconded by Councilmember Jason DiPonzio that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 2 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

COMMUNICATIONS:

FROM Members of Tay House Scout Troop #19 to Supervisor, thanking him for his attendance at their 95th Anniversary celebration event held May 17, 2014

FROM NY State Department Taxation & Finance, Office of Real Property Tax Service to Supervisor regarding the tentative 2014 State equalization rate for the Town of Brighton.

Motion by Councilmember Louise Novros seconded by Councilmember Jason DiPonzio that the aforementioned correspondence be received and filed

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

COMMITTEE REPORTS:

Parks and Recreation & Community Services – Next meeting 6/23/14 at 4:30 PM at Brookside
Finance and Administrative Services – Next meeting 6/17/14 at 3:30 PM in Stage Conference Room

Public Safety Services – Next meeting 7/8/2014 at 9:00 AM in Downstairs Meeting Room

Public Works Services – Next meeting 7/7/2014 at 8:00 AM in Downstairs Meeting Room

NEW BUSINESS:

MATTER RE: Reading and approval of claims

Motion by Councilmember Christopher Werner seconded by Councilmember Jason DiPonzio that the Supervisor read and approve the claims for payment as set forth in Exhibit No. 3 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Re-appointment of David Ryder to the Conservation Board for a 2-year term effective July 1, 2014 through June 30, 2016 (see Resolution #3).

Motion by Councilmember Louise Novros seconded by Councilmember Christopher Werner that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 4 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Authorize transfer of funds totaling \$10,000 from various Highway Dept. road repair accounts to the Highway Dept. maintenance/machinery repair service account (see Resolution #4 and letter dated May 29, 2014 from Timothy Anderson, Deputy Highway Superintendent).

Motion by Councilmember Christopher Werner seconded by Councilmember Jason DiPonzio that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 5 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Accept donation from The Garden Lovers Club of Brighton in the amount of \$249.00 to be used towards the planting of the Arbor Day Tree at Unity Park (see Resolution #5 and letter dated June 2, 2014 from Timothy Keef, P.E. Commissioner of Public Works).

Motion by Councilmember Louise Novros seconded by Councilmember Jason DiPonzio that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 6 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Adoption of Electronic Banking Policy to document the authorization and procedures for electronic banking services exclusive to particular users (see Resolution #6 and memorandum dated June 3, 2014 from Suzanne Zaso, Director of Finance).

Motion by Councilmember Christopher Werner seconded by Councilmember Jason DiPonzio that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 7 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Authorize budget transfer in the amount of \$1,100 to support the purchase of fireproof file cabinet for the Human Resources Dept. (see Resolution #7 and memorandum dated June 3, 2014 from Suzanne Zaso, Director of Finance).

Motion by Councilmember Louise Novros seconded by Councilmember Christopher Werner that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 8 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Accept donation in the amount of \$2,990 from Brighton Rotary for the purchase of two (2) automated defibrillator units with approval to amend the 2014 budget to increase appropriations to support same (see Resolution #8 and memorandum dated June 3, 2014 from Suzanne Zaso, Director of Finance).

Motion by Councilmember Jason DiPonzio seconded by Councilmember Christopher Werner that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 9 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Accept cash and in-kind services donations totaling \$7219.94 from various local businesses to support the 2014 Clean Sweep program (see Resolution #9 and memorandum dated June 3, 2014 from Suzanne Zaso, Director of Finance).

Motion by Councilmember Louise Novros seconded by Councilmember Jason DiPonzio that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 10 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Authorize Supervisor to execute easement agreements and Certificate of Exemption Forms (TP-584) for Sidewalk easement along cul-de-sac right of way at Lot W-10 on Pendleton Hill within the Reserve Subdivision (see Resolution

#10, letter dated May 29, 2014 from Michael Guyon, P.E. Town Engineer and copy of easement agreements).

Motion by Councilmember Jason DiPonzio seconded by Councilmember Christopher Werner that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 11 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTER RE: Support for the "Abandoned Property Neighborhood Relief Act of 2014" (A.09341 and S.7350) (See Resolution #11, text of Legislation and memo in support).

Motion by Councilmember Jason DiPonzio seconded by Councilmember Louise Novros that the Town Board adopt the resolution as prepared by the Attorney for the Town as set forth in Exhibit No. 12 attached

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MATTERS OF THE SUPERVISOR:

MATTER RE: Expense and revenues for the period ending May 31, 2014

Motion by Councilmember Louise Novros seconded by Councilmember Jason DiPonzio that the aforementioned report be received and filed

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

MEETING ADJOURNED AT 8:46 PM:

Motion by Councilmember Christopher Werner seconded by Councilmember Louise Novros to adjourn

UPON ROLL CALL VOTE

MOTION UNANIMOUSLY CARRIED

CERTIFICATION:

I, Daniel Aman, 131 Elmore Road, Rochester, NY do hereby certify that the foregoing is a true and accurate record of the proceeding of the Town of Brighton, County of Monroe, State of New York meeting held on the 11th day of June, 2014 and that I recorded said minutes of the aforesaid meeting of the Town Board of the Town of Brighton, New York

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 11th day of June, 2014.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

WHEREAS, a public hearing, duly noticed, was held on June 11, 2014 at 7:30 pm at 2300 Elmwood Avenue in the Town of Brighton to hear testimony and public comment and to receive and review evidence and exhibits regarding the proposed adoption of Local Law #2 of 2014 entitled "Buckland Park Parking Restrictions Local Law" in the form attached hereto; and

WHEREAS, at said public hearing all persons having an interest in the proposed Local Law had an opportunity to speak and give testimony relating thereto, and the Town Board having determined that based on such testimony, and the written materials received, it desires to adopt such Local Law; now it is hereby

RESOLVED, that the proposed Local Law #2 of 2014 entitled "Buckland Park Parking Restrictions Local Law" is hereby adopted and enacted by the Town Board of the Town of Brighton in the form attached hereto; and be it further

RESOLVED, that said Local Law shall be filed by the Town Clerk in the proper book at the Office of the Town Clerk and shall also be filed by the Town Clerk with the New York State Secretary of State all within twenty days or less from the date the above Local Law is enacted by the Town Board of the Town of Brighton.

Dated: June 11, 2014

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 14th day of May, 2014.

PRESENT:

WILLIAM W. MOEHLE,

Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

RESOLVED, that correspondence dated May 9, 2014 from Commissioner of Public Works Timothy E. Keef, P.E. regarding a request to set a public hearing for June 11, 2014 to consider a Local Law establishing parking restrictions for the entrance road to Buckland Park which would prohibit parking at all times along both the east and west sides of the entrance road to Buckland Park, be received and filed; and it is hereby

ORDERED, that pursuant to Article 3 of the Municipal Home Rule Law of the State of New York, a public hearing on a proposed Local Law of 2014 entitled "Buckland Park Parking Restrictions Local Law", in the form attached hereto, be held by the Town Board of the Town of Brighton on the 11th day of June, 2014, at 7:30 o'clock PM, prevailing time, at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town to consider the proposed Local Law and to hear all persons interested therein and to take such action as may be proper, and it is further

ORDERED, that Notice of the time and place of such hearing, describing the purpose of said Local Law be published and posted pursuant to Law.

Dated: May 14, 2014

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____

Local Law #2 of 2014
Buckland Park Parking Restrictions Local Law

Section 1. Title

This Local Law shall be known as the Buckland Park Parking Restrictions Local Law of the Town of Brighton.

Section 2. Purpose.

It is the purpose and intent of this Local Law to amend the Town Code to restrict parking on the entrance road to Buckland Park for the protection of the health and safety of park users.

Section 3. Amendments to the Town Code.

Chapter 185, Section 185-46 "Schedule XII: Parking Prohibited at All Times" is amended to add the following: (Deletions are ~~crossed-out~~, additions are **bolded and underlined**)

Buckland Park Entrance Road – Both Sides – From Westfall Road to a point 650 feet south.

Section 4. Effective Date

This Local Law shall take effect immediately upon filing with the Secretary of State.



Town of Brighton

MONROE COUNTY, NEW YORK

DEPARTMENT OF PUBLIC WORKS

2300 ELMWOOD AVENUE ROCHESTER, NEW YORK 14618

PHONE: (585)784-5250 FAX: (585) 784-5368

May 9, 2014

Supervisor William Moehle and
the Honorable Town Board
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

Re: Proposed Parking Restrictions
Buckland Park Entrance Road

Dear Supervisor Moehle and Town Council Members:

As you may be aware the entrance road to Buckland Park is used by Park visitors for the parking of their vehicles during certain events. This has been problematic at times due to the narrowing of the pavement, causing concern for accessibility to the area by emergency vehicles, as well as inherent safety concerns due to pedestrian traffic along the road and between sports fields. The Parks, Recreation and Community Services Committee is in favor of this proposal, having recommended this action at their April 2014 meeting. Therefore, it is proposed to restrict parking in accordance with Town and Highway Law as outlined below to make the area safer and more manageable:

- 1) along both the east and west sides of the entrance road to Buckland Park, authorize no parking at all times from the intersection of Westfall Road and 650 feet to the south, which is the beginning of the formal parking lot;

For your reference an aerial photo depicting the above stated information is attached.

I would therefore ask that the Town Board receive and file this communication, that a public hearing be set for this matter and that any requisite notification be sent out. As always, your consideration of matters such as this is greatly appreciated.

Very truly yours,

Timothy E. Keef, P.E.
Commissioner of Public Works

TEK/wp

attachment

cc: T. Anderson
M. Henderson
M. Beeman
D. Aman
K. Gordon



Pobay Square Dr

Westfall Road (CO239)

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 11th day of June, 2014.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

RESOLVED, that correspondence dated May 30, 2014 from Town Engineer Michael E. Guyon, P.E. regarding a request to authorize solicitation of bids to provide construction services related to the underground sewer crossings that are part of the Monroe Community College Sanitary Sewer -Phase 3 Project, be received and filed; and be it further

RESOLVED, that the Town Board hereby authorizes the solicitation of bids to provide construction services related to the underground sewer crossings that are part of the Monroe Community College Sanitary Sewer - Phase 3 Project.

Dated: June 11, 2014

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____



Town of Brighton

MONROE COUNTY, NEW YORK

DEPARTMENT OF PUBLIC WORKS

2300 ELMWOOD AVENUE * ROCHESTER, NEW YORK 14618 * PHONE (585)784-5250 * FAX (585)784-5368

May 30, 2014

The Honorable Finance and Administrative Services Committee
Town of Brighton
2300 Elmwood A venue
Rochester, New York 14618

Re: Monroe Community College Sanitary Sewer Project-Phase 3
Solicit a Request for Bidders for Installation of Underground Sewer Crossings

Dear Councilperson Werner and Committee Members:

I am requesting authorization to solicit a request for bidders to provide construction services related to the underground sewer crossings that are part of the Monroe Community College Sanitary Sewer- Phase 3 Project.

Lu Engineers was previously awarded a contract for Professional Design Services related to this project. Lu Engineers has prepared design drawings and construction specifications that will be used for the underground sewer crossing bidding process.

Funds are available in account SS.Sewer.8120 2.80 to perform the underground sewer crossings. No action as to awarding a contract will be considered without returning to this committee.

As always, thank you for your consideration. I will be in attendance at your regularly scheduled June 3, 2014 meeting in the event that you have any questions regarding this matter.

Respectfully,

Michael E. Guyon, P.E.
Town Engineer

cc: S. Zaso
T. Keef
S.Zimmer
Mary Ann Hussar

CLAIMS FOR APPROVAL AT TOWN BOARD MEETING

June 11, 2014

THAT THE CLAIMS AS SUMMARIZED BELOW HAVING BEEN APPROVED BY THE RESPECTIVE DEPARTMENT HEADS AND AUDITED BY THE TOWN BOARD AUDIT COMMITTEE ARE HEREBY APPROVED FOR PAYMENT.

A - GENERAL	\$	<u>167,537.51</u>
D - HIGHWAY		<u>170,933.89</u>
H - CAPITAL		<u>106,580.00</u>
L - LIBRARY		<u>37.40</u>
SL - LIGHTING DIST		<u>18,838.16</u>
SR-REFUSE DISTRICT		<u>68,789.49</u>
SS - SEWER DIST		<u>178,503.33</u>
TA - AGENCY TRUST		<u>3,159.17</u>
TE - EXPENDABLE TRUST		<u>203.88</u>
TOTAL	\$	<u>714,582.83</u>

UPON ROLL CALL

MOTION CARRIED _____

APPROVED BY:

SUPERVISOR_____
COUNCIL MEMBER_____
COUNCIL MEMBER

TO THE SUPERVISOR:

I CERTIFY THAT THE VOUCHERS LISTED ABOVE WERE AUDITED BY THE TOWN BOARD ON THE ABOVE DATE AND ALLOWED IN THE AMOUNTS SHOWN. YOU ARE HEREBY AUTHORIZED AND DIRECTED TO PAY TO EACH OF THE CLAIMANTS THE AMOUNT OPPOSITE HIS NAME.

DATE_____
TOWN CLERK

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 11th day of June, 2014.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

RESOLVED, that David Ryder hereby be reappointed to a two year term to the Conservation Board for a term commencing July 1, 2014 and ending on June 30, 2016.

Dated: June 11, 2014

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 11th day of June, 2014.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

RESOLVED, that correspondence dated May 29, 2014 from Deputy Highway Superintendent Timothy Anderson regarding a request to authorize the transfer of funds totaling \$10,000.00 as detailed in said correspondence to fund unanticipated repairs to a vehicle lift in a mechanics bay, be received and filed; and be it further

RESOLVED, that the Town Board hereby authorizes the transfer of funds totaling \$10,000.00 as detailed in said correspondence to fund unanticipated repairs to a vehicle lift in a mechanics bay.

Dated: June 11, 2014

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____



Town Of Brighton

Operations Center

1941 Elmwood Ave. / Rochester, New York 14620 / Phone (585) 784 - 5280 Fax (585) 784 - 5385

May 29, 2014

Honorable Finance Committee
Town of Brighton
2300 Elmwood Ave.
Rochester, NY 14618

Re: Transfer of funds - Machinery

Honorable Members:

I recommend that a transfer be approved from:

Highway – Road Repair – Equipment (D.HWY.5110 2.30) in the amount of \$3,000
and
Highway – Road Repair – Sewer Construction/Repair (D.HWY.5110 2.80) in the amount of \$4,000
and
Highway – Road Repair – Sewer Repair Materials (D.HWY.5110 4.07) in the amount of \$3,000

to:

Highway – Machinery – Maintenance/Repair Service (D.HWY.5130 4.41) in the amount of \$10,000.

The funds are proposed to be used to for unanticipated repairs to a vehicle lift in a mechanics bay.

Sincerely,

Timothy J. Anderson
Deputy Highway Superintendent

Cc: M. Hussar
S. Zaso
T. Keef
A. Banker

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 11th day of June, 2014.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

RESOLVED, that correspondence dated June 2, 2014 from Commissioner of Public Works Timothy Keef, P.E. regarding a request to authorize the acceptance of a \$249.00 donation from the Garden Lovers Club of Brighton to be used towards the planting of the Arbor Day Tree at Unity Park, be received and filed; and be it further

RESOLVED, that the Town Board hereby gratefully accepts a \$249.00 donation from the Garden Lovers Club of Brighton to be used towards the planting of the Arbor Day Tree at Unity Park and directs that said donation be recorded as unanticipated revenue for the A.DPW 8560 4.11 account.

Dated: June 11, 2014

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____



Town of Brighton

MONROE COUNTY, NEW YORK

DEPARTMENT OF PUBLIC WORKS

2300 ELMWOOD AVENUE ROCHESTER, NEW YORK 14618

PHONE: (585)784-5250 FAX: (585) 784-5368

June 2, 2014

Supervisor William W. Moehle and
the Honorable Town Board
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

Re: Donation Towards Town Arbor Day Tree Planting

Dear Supervisor Moehle and Town Council Members:

The Garden Lovers Club of Brighton, situated in the Houston Barnard Neighborhood, have graciously provided a donation of \$249.00 towards the planting of the Arbor Day Tree installed this year at Unity Park. This allowed the Highway Department to provide a suitably sized specimen tree, a Red Sunset Maple, at this highly visible Town park. I recommend that your Honorable Body receive and file the attached communication and check from the Garden Lovers Club of Brighton and accept the donation, with great appreciation and thanks, as an unanticipated revenue for the A.DPW 8560 4.11 account.

As always, thank you for your consideration of matters such as this.

Very truly yours,

Timothy E. Keef, P.E.
Commissioner of Public Works

TEK/wp

attachment

cc: T. Anderson
S. Zaso
M. Hussar
K. Gordon

50 Ambassador Drive,
Rochester, Ny 14610
May 27th 2014

To the Town of Brighton,

The Garden Lover's Club of Brighton, (which has been in existence for more than 85 years) is in the Houston Barnard Neighborhood of Ambassador Dr, Sandringham Road and Trevor Court. Each year we make a donation to a beautification/preservation project in our town. This year, 2014, we would like to donate the shade tree that is needed to replace one that was lost at the Twelve Corners triangle park. We are happy to submit a check for \$249.00 to cover the cost of the Red Sunset Maple Tree chosen by the town.

Sincerely

Sally Constine
Treasurer

R **RECEIVED** **D**
MAY 28 2014

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 11th day of June, 2014.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

RESOLVED, that a memorandum dated June 3, 2014 from Director of Finance Suzanne Zaso regarding a request to adopt an Electronic Banking Policy as attached to said memorandum, be received and filed; and be it further

RESOLVED, that the Town Board hereby adopts the Electronic Banking Policy as attached to said memorandum.

Dated: June 11, 2014

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____



TOWN OF BRIGHTON
Suzanne Zaso, Director of Finance
2300 ELMWOOD AVENUE
ROCHESTER, NEW YORK 14618
(585) 784-5210 Fax (585) 784-5396

MEMORANDUM

To: The Honorable Town Board
Attn: Finance and Administrative Services Committee
From: Suzanne Zaso, Director of Finance *yz*
Date: June 3, 2014
Subject: Electronic Banking Policy

I am recommending that Your Honorable Body adopted the attached Electronic Banking Policy to document the authorization and procedures for electronic banking inclusive of recording and security measures to be followed by users.

I would be happy to respond to any questions that members of the Town Board may have regarding this matter.

Town of Brighton

Electronic Banking Policy

Policy Statement

The Town of Brighton recognizes electronic banking as a way to conveniently manage Town funds in an efficient and cost effective manner. The intent of this policy is to outline procedures that should be followed to allow electronic banking as a means of managing Town funds with the least amount of risk to security and in accordance with all applicable laws and regulations inclusive of General Municipal Law Section 5-a authorizing the use of electronic or wire transfers.

Definition of Electronic Banking

Activities that are defined as electronic banking include online banking and electronic transactions inclusive of, but not limited to, the following:

- Reviewing account balances and activity
- Accessing bank statements
- Placing stop payments
- Electronic Funds Transfers (EFTs) between Town authorized accounts
- Retrieval of cancelled checks
- ACH or wire payments to vendors, as authorized
- Remote deposit of checks payable to the Town
- Uploading check activity for fraud prevention services or reconciliations
- Other services offered through online banking

The Town Board also recognizes that most banking institutions no longer provide cancelled paper checks to their customers, but instead offer an electronic image stored and obtained online or on a CD. As such, the Town Board authorizes the acceptance of these electronic images in lieu of cancelled checks as required by statute.

Request for Access

All requests for access to electronic banking at Town approved depositories should be made in writing by the department head and addressed to the Director of Finance and include, at a minimum, the following:

- Name of requesting department
- Name and title of employee access is being requested for
- Bank name and account number
- Type of access requested (i.e. view only, print bank statements, stop payments, submit deposits, transfer funds internally, transfer funds to outside vendors/organizations)
- If access to funds transfers or payments is requested, a maximum dollar limit should be provided
- If transfer to outside vendors/organizations is requested, a list of such vendors or organizations should be provided

Authorizations and Approvals

- I. Electronic Funds Transfers and Electronic Payments - Authorization to transfer funds between Town accounts or for wire or ACH payments to vendors, creditors, or outside agencies will only be permitted by the following Town employees:
 - Director of Finance
 - Budget Officer
 - Supervisor
 - Town Clerk (Clerk and Receiver accounts only)
 - Deputy Town Clerk (Clerk and Receiver accounts only)

Any transfer or payment of funds must be approved by two authorized Town employees, with the exception of the transfer of funds between Town authorized accounts within the same bank or financial institution which may be initiated by one authorized Town employee.

All electronic payments are subject to the same policies and procedures for auditing and approving claims as with a traditional check payment.

The Town Board may by resolution enter into an agreement with a third party payroll vendor to provide for electronic ACH payments of payroll wages and various statutory and authorized withholdings and deductions.

II. Electronic Deposits - Authorization to make electronic deposits into Town accounts will only be permitted by the following Town employees:

- Director of Finance
- Budget Officer
- Supervisor
- Town Clerk
- Deputy Town Clerk

III. Uploading Check Files - Authorization to upload check data files for fraud prevention services and account reconciliations will only be permitted by the following Town employees:

- Director of Finance
- Budget Officer
- Supervisor
- Town Clerk (Clerk and Receiver accounts only)
- Deputy Town Clerk (Clerk and Receiver accounts only)

Files for upload shall be reviewed by two separate employees to check for accuracy and allow for segregation of duties.

IV. Online Review and Stop Payments - Authorization to have online banking access to review activity, bank statements, electronic images, and place stop payments on checks will only be permitted by the following Town employees:

- Director of Finance
- Budget Officer
- Supervisor
- Town Clerk (Clerk and Receiver accounts only)
- Deputy Town Clerk (Clerk and Receiver accounts only)
- Town Justices
- Court Clerks

Documentation and Recording

- I. Electronic Funds Transfers and Electronic Payments - All requests for electronic payments, signed authorizations, and printed confirmations should be kept together and submitted to the clerk in charge of accounts payable in the Finance Office for recording in the Town's financial system software. Transfers of funds between Town authorized accounts will be recorded by manual journal entry prepared and posted by separate staff to allow for the segregation of duties.

- II. Electronic Deposits – All backup material for electronic deposits, including copies of check stubs and supporting documentation and bank deposit confirmation, should be kept together and will be recorded by manual journal entry prepared and posted by separate staff to allow for the segregation of duties. Original checks that have been deposited should be bundled by deposit with the bank confirmation and filed in a locked, secure location. Once the bank account for the month these checks were deposited has been reconciled, the original checks should be shredded.

- III. Uploading Check Files – All check registers for upload will be kept either electronically or in hard copy form for access and review during monthly bank reconciliations and as needed.

- IV. Stop Payments – Confirmations of stop payments shall be kept along with the request for such action in either electronically or in hard copy form for access and review during monthly bank reconciliations and as needed.

Prohibited Uses

Any transaction that is not authorized for official Town Business is prohibited. At no time may a Town employee utilize any Town designated online banking computer for one's own personal banking. Any personal use or misappropriation of funds may result in the revocation of authorized use and the employee involved in such actions may be subject to progressive discipline up to and including termination.

Security and Safeguards

The Town will take all available security precautions available to prevent risks associated with electronic and online banking including:

- The assignment of a dedicated computer for the sole use of online banking with firewall protections
- Dedicated banking computer not to be used for email or Internet browsing
- Dedicated banking computer only powered on for the period to perform needed online banking
- User IDs, passwords, and tokens (if issued by the bank) should be keep in a safe, well secured area
- User IDs and passwords should not be kept in the same secure location as a bank issued token
- Passwords are changed on a regular basis and not saved on the computer or web browser
- The use of dual authorizations and other fraud prevention tools such as ACH debit blocks that are available from the banking systems
- Online bank accounts should be monitored on a timely basis for unauthorized or suspicious activity. Any suspicious activity should be reported to the Finance Department immediately
- Bank account should be reconciled on a monthly basis

If it is believed that any sensitive banking information may have been compromised, this must be brought to the attention of the Director of Finance (as administrator) immediately so a new ID, password, and/or token can be issued in a timely manner.

I, _____ have received and read the Town's policy for electronic banking as adopted by the Town Board on _____ and I agree to abide by all provisions of said policy.

Employee Signature & Date

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 11th day of June, 2014.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

RESOLVED, that a memorandum dated June 3, 2014 from Director of Finance Suzanne Zaso regarding a request to authorize the transfer of \$1,100.00 from the Town's contingent account (A.UNDST.1990 4.90) to office furniture in the Personnel Department (A.PRSNL 1430 2.12) to fund the purchase of a fireproof file cabinet, be received and filed; and be it further

RESOLVED, that the Town Board hereby authorizes the transfer of \$1,100.00 from the Town's contingent account (A.UNDST.1990 4.90) to office furniture in the Personnel Department (A.PRSNL 1430 2.12) to fund the purchase of a fireproof file cabinet.

Dated: June 11, 2014

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____



SUZANNE ZASO, DIRECTOR OF FINANCE
2300 ELMWOOD AVENUE
ROCHESTER, NEW YORK 14618
Phone (585) 784-5210 Fax (585) 784-5396

MEMORANDUM

To: The Honorable Town Board
Attn.: Finance and Administrative Services Committee
From: Suzanne Zaso, Director of Finance
Date: June 3, 2014
Subject: Budget Transfer for File Cabinet

I am recommending that the Town Board approve a budget transfer in the amount of \$1,100 from the Town's contingent account (A.UNDST.1990 4.90) to office furniture in the Personnel Department (A.PRSNL.1430 2.12) to enable the purchase of a fireproof file cabinet to house important personnel records.

I will be happy to respond to any questions that members of the Committee or other members of the Town Board may have regarding this matter.

Copy to: G. Brandt

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 11th day of June, 2014.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

RESOLVED, that a memorandum dated June 3, 2014 from Director of Finance Suzanne Zaso regarding a request to authorize the acceptance of a donation in the amount of \$2,990.00 from Brighton Rotary for the purchase of two automatic external defibrillators and to amend the 2014 budget as outlined in said memorandum, be received and filed; and be it further

RESOLVED, that the Town Board hereby gratefully accepts the donation in the amount of \$2,990.00 from Brighton Rotary for the purchase of two automatic external defibrillators and hereby amends the 2014 budget as outlined in said memorandum.

Dated: June 11, 2014

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____



SUZANNE ZASO, DIRECTOR OF FINANCE
2300 ELMWOOD AVENUE
ROCHESTER, NEW YORK 14618
Phone (585) 784-5210 Fax (585) 784-5396

MEMORANDUM

To: The Honorable Town Board
Attn.: Finance and Administrative Services Committee
From: Suzanne Zaso, Director of Finance *sz*
Date: June 3, 2014
Subject: Accept Donation and Appropriate Funds

I am recommending that Your Honorable Town Board accept a cash donation in the amount of \$2,990 from Brighton Rotary to purchase two (2) automated external defibrillator units (AED) for use at Town Hall. I am also recommending that the 2014 budget be amended to increase appropriations by \$2,990 in Facility Operations – safety equipment (A.DPW.1620 2.18) to be fully supported by an increase in donations (A.DPW.1620 2705).

These two new units replace the existing units at Town Hall and in the Public Safety wing allowing the previous units to be move to the Parks Department.

I will be happy to respond to any questions that members of the Committee or other members of the Town Board may have regarding this matter.

Cc: K. Hall

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 11th day of June, 2014.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

RESOLVED, that a memorandum dated June 3, 2014 from Director of Finance Suzanne Zaso regarding a request to authorize the acceptance of cash donations of \$6,100.00 and in-kind donations valued at \$1,119.94 from various donors in support of the 2014 Clean Sweep program, be received and filed; and be it further

RESOLVED, that the Town Board hereby gratefully accepts the cash donations of \$6,100.00 and in-kind donations valued at \$1,119.94 from various donors in support of the 2014 Clean Sweep program.

Dated: June 11, 2014

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____

MEMORANDUM

To: The Honorable Town Board
Attn.: Finance and Administrative Services Committee
From: Suzanne Zaso, Director of Finance *sz*
Date: June 3, 2014
Subject: Cash and In-Kind Sponsorships - Clean Sweep Program

I recommend that Your Honorable Body approve and accept the attached sponsorships of cash and in-kind services for the Clean Sweep event held on May 3, 2014. A total of \$6,100 was received in cash support and \$1,119.94 as in-kind support (see attached list for complete details). The estimated total expenditures for the 2014 Clean Sweep Program are \$2,200; therefore no tax support will be needed again to support this year's event.

I will be happy to respond to any questions that members of the Committee or other members of the Town Board may have regarding this matter.

Cc: Louise Novros, Councilmember and Event Coordinator

BRIGHTON CLEAN SWEEP – 2014

Cash Sponsorships

Sponsor	Amount
Brighton Chamber of Commerce	\$ 200.00
Brighton Fire Department	200.00
Brighton Rotary	200.00
Brighton Volunteer Ambulance	200.00
Canandaigua National Bank	200.00
Dollinger Associates, PC	200.00
Donna Matthews	100.00
Microworx	200.00
Ontario Hearing	200.00
Roselawn	200.00
Rustic Village Apts.	200.00
Waste Management	4,000.00
	\$6,100.00

Clean Sweep 2014 In-Kind Sponsors

Sponsor	Donation	Contact Person/Letter Sent	Approx. Value
Bagel Land	16 dozen bagels @\$9.00/doz	Bob Juliano 1896 Monroe Ave 442-3080	\$ 144.00
Great Harvest Bread Co.	4 desert platters @\$39.95 ea	Wendy Russell, Mgr. 1890 Monroe Avenue 242-7544	159.80
Starbucks	3 cambros @ \$97.20 ea	Scott Sargeant 1916 Monro Avenue 442-6410	291.60
Tops	10 doz donuts @ \$4.99/doz 4 gal. o.j @ \$4.69/gal	Bridget Eberhard Tops Friendly Markets 1900 So. Clinton Ave.	68.66
Wegmans	48 subs cut into sixths	Linda Piccirilli 586-6680 ext. 329 Linda.piccirilli@wegmans.com	455.88
Total			\$1119.94

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 11th day of June, 2014.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

RESOLVED, that correspondence dated May 29, 2014 from Town Engineer, Michael E. Guyon, P.E., regarding a request to authorize the Supervisor to execute all documents necessary to effectuate a proposed Sidewalk Easement Agreement with Anthony J. Costello & Son (Joseph) Development, LLC on Pendelton Hill, in the Town of Brighton and a copy of the proposed Sidewalk Easement Agreement, be received and filed; and be it further

RESOLVED, that the Town Board hereby authorizes the Supervisor to execute all necessary legal documents including the above referenced proposed Sidewalk Easement Agreement to secure said easement for the Town, in the form reviewed and approved by the Attorney to the Town.

Dated: June 11, 2014

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____



Town of Brighton

MONROE COUNTY, NEW YORK

DEPARTMENT OF PUBLIC WORKS

2300 ELMWOOD AVENUE ★ ROCHESTER, NEW YORK 14618 ★ PHONE (585)784-5250 ★ FAX (585)784-5368

May 29, 2014

The Honorable Town of Brighton Town Board
Town of Brighton
2300 Elmwood Ave.
Rochester, New York 14618

Re: The Reserve Subdivision
Sidewalk Easement

Dear Supervisor Moehle and Town Board Members:

We discovered that a sidewalk easement along the perimeter of the cul-de-sac right of way line was necessary during the review of Lot W10 on Pendleton Hill. A copy of the easement agreement, description and map are attached for your reference. The Town staff has reviewed the easement language, map and description and finds them acceptable.

I am requesting that the Town Board authorize the Supervisor to endorse this easement and the corresponding TP 584 forms

As always, your consideration of matters such as this is greatly appreciated.

Respectfully,

Michael E. Guyon, P.E.
Department of Public Works

Cc: Tim Keef
Ramsey Bohner
Kenneth W Gordon

SIDEWALK EASEMENT

This Indenture, made this 27 day of May, 2014 by and between ANTHONY J. COSTELLO & SON (JOSEPH) DEVELOPMENT, LLC, a New York limited liability company with offices at One Airport Way, Rochester, New York 14624, as the owner of properties known as 75 Pendleton Hill (Tax Account No. 149.11-2-15), 95 Pendleton Hill (Tax Account No. 149.11-2-14), 100 Pendleton Hill (Tax Account No. 149.11-2-13), 90 Pendleton Hill (Tax Account No. 149.11-2-12) and 80 Pendleton Hill (Tax Account No. 149.11-2-11), all situate in the Town of Brighton, Monroe County, New York, and all other individuals and corporations who may execute this instrument, first parties, and the TOWN BOARD OF THE TOWN OF BRIGHTON, a municipal corporation with offices at 2300 Elmwood Avenue, Rochester, Monroe County, New York 14618, second parties,

WITNESETH:

That the parties of the first part in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration paid to them by the parties of the second part hereby grant and release to the parties of the second part, their successors and assigns, a permanent right of way, easement and privilege in, along and over a strip of land to be used for sidewalk purposes as specified herein and which land and easement are more particularly described as follows:

SEE SCHEDULE "A" ATTACHED

to have and to hold the premises herein granted unto the parties of the second part, their successors and assigns, with the following rights and privileges:

1. The perpetual easement granted hereunder is for the purpose of constructing and maintaining a sidewalk, over which all the members of the public may traverse at all times, as determined by the second parties, their successors and assigns, who shall have the right to enter upon said premises for the purposes aforesaid.
2. The second parties do hereby agree to indemnify and hold harmless the first parties, their successors and assigns, from loss or damage resulting from its exercise of its rights under this easement, except such damages as are due to the negligence of the first parties, their agents, servants, employees, grantees, successors and assigns. Conversely, the first parties agree to hold the second parties, their successors and assigns, from loss or damage resulting from the gross negligence of the first parties, their agents, servants, employees, grantees, successors and assigns.
3. The first parties, hereby reserve the right to plant or maintain lawns or other embellishments over the unpaved areas within the said easement, and when necessary or the second parties, agents or contractors to enter thereon for maintaining, replacing or repairing any portion of the sidewalk or other appurtenances, they shall, and by acceptance of this easement, do agree to restore the property of the first parties to the same condition as before such work is or was done insofar as it is practicable and reasonable to do. The second parties, their successors, assigns, agents or

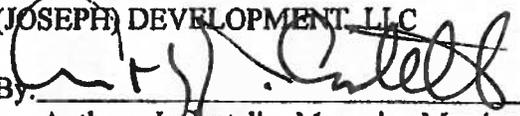
contractors, may at any time remove all obstructions from the areas of the easement, including trimming or removal of trees and shrubs, which they reasonably determine are interfering with the operation or maintenance of the sidewalk or part thereof without liability to the parties, except as provided for in Paragraph 2.

4. The parties of the second part, their successors, assigns, agents or contractors may, at any time exercise the rights and privileges granted herein. Said rights and privileges do not convey or infer a duty by the parties of the second part, their successors, assigns or contractors to remove or replace trees or shrubs that, in the opinion of the grantee, do not interfere with or obstruct the use of the sidewalk. Furthermore, it shall not be the duty of the parties of the second part, their successors, assigns, agents or contractors to perform routine property maintenance of the easement area outlined herein or maintain said area in a fashion that would typically be performed by the party of the first part in the normal course of the upkeep of the property. The parties of the second part agree to maintain the sidewalk in good repair.

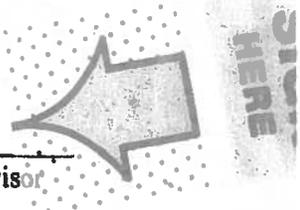
5. The parties of the first part reserve the full use and enjoyment of the said premises except for the purposes herein granted to the parties of the second part. The parties of the first part covenant that the parties of the second part shall quietly enjoy this easement and first parties warrant the title to same.

Any person or party not the record owner of the above described property who executes this instrument does so for the sole purpose or purposes of subordinating mortgages recorded in the Monroe County Clerk's Office in Liber _____ of Deeds at Page _____ dated _____, owned by said person or party to the easement herein granted.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals and/or caused its corporate seal to be hereunto affixed, and these premises to be signed by its duly authorized officer, all as of the day and year first above written.

ANTHONY J. COSTELLO & SON
(JOSEPH) DEVELOPMENT, LLC
By: 
Anthony J. Costello, Managing Member

THE TOWN OF BRIGHTON
By: _____
William W. Moehle, Town Supervisor



Sidewalk Easement #1
Anthony J. Costello & Son (Joseph) Development, LLC
Town of Brighton, County of Monroe

April 1, 2014

Intended to describe a sidewalk easement to the Town of Brighton, being all that tract or parcel of land, being part of Town Lot 40, Township 13, Range 7, Phelps and Gorham Purchase, situate in the Town of Brighton, County of Monroe, State of New York, and more particularly described as follows:

Commencing at a point being on the common boundary line at the southeast corner of Lot W7 and the Southwest corner of Lot W8 of lands on the Reserve, conveyed to Anthony J. Costello & Son, by deed recorded in the Monroe County Clerk's Office at Liber 9572 of Deeds, Page 462; **said point being the point or place of beginning.**

1. Thence, turning to the right and running a line having a bearing of N20°47'28"E a distance of 1.00 feet to a point;
2. Thence, turning right and running a line having a bearing of S69°12'32"E a distance of 64.67 feet to a point;
3. Thence, running along a curve to the left whose radius is 74.000 feet, and whose arc length is 26.873 feet to a point;
4. Thence, continuing and running along a curve to the right; whose radius is 64.000 feet, and whose arc length is 284.688 feet to a point;
5. Thence, running along a curve to the left; whose radius is 74.000 feet, and whose arc length is 69.819 feet to a point;
6. Thence, continuing along a line having a bearing of N69°12'32"W a distance of 9.15 feet to a point;
7. Thence, turning to the right and running a line having a bearing of N20°47'28"E a distance of 1.00 feet to a point;
8. Thence, turning to the right and running a line having a bearing of S69°12'32"E a distance of 12.88 feet to a point;
9. Thence, turning and running along a curve to the right; whose radius is 75.000 feet, and whose arc length is 69.547 feet to a point;
10. Thence, continuing along a curve to the left; whose radius is 60.000 feet, and whose arc length is 264.042 feet to a point;
11. Thence, turning and running along a curve to the right; whose radius is 50.000 feet, and whose arc length is 16.590 feet to a point;

Sidewalk Easement #1
Anthony J. Costello & Son (Joseph) Development, LLC
Town of Brighton, County of Monroe

12. Thence, turning to the right and running a line having a bearing of N69°12'32"W a distance of 77.86 feet to a point; **said point being the point or place of beginning.**

Intending to describe the Sidewalk Easement # 1 to the Town of Brighton.

At a Town Board Meeting of the Town of Brighton, Monroe County, New York, held at the Brighton Town Hall, 2300 Elmwood Avenue, in said Town of Brighton on the 11th day of June, 2014.

PRESENT:

WILLIAM W. MOEHLE,
Supervisor

JAMES R. VOGEL
LOUISE NOVROS
CHRISTOPHER K. WERNER
JASON S. DIPONZIO

Councilpersons

RESOLUTION OF TOWN BOARD OF THE TOWN OF BRIGHTON, MONROE COUNTY, CALLING ON THE GOVERNOR, THE NEW YORK STATE ASSEMBLY, AND THE NEW YORK STATE SENATE TO ENACT THE "ABANDONED PROPERTY NEIGHBORHOOD RELIEF ACT OF 2014"

WHEREAS, in the wake of the financial crisis of 2008, there has been a marked increase in New York State in the incidence of vacant and abandoned residential properties securing delinquent mortgages, which properties frequently fall into disrepair, thus devaluing neighboring properties and harming the larger community; and

WHEREAS, these vacant and abandoned residential properties have become an issue in the Town of Brighton and in many similarly situated neighborhoods across New York State because the properties are often boarded up, dilapidated, unsafe, inhabited by squatters or used for criminal purposes; and

WHEREAS, the Town of Brighton and similarly situated municipalities across New York State are often forced to expend taxpayer funds to prevent vacant and abandoned residential properties from becoming a public hazard, thereby depleting limited local resources; and

WHEREAS, the Town of Brighton and similarly situated municipalities across New York State are often forced to expend taxpayer funds to investigate and determine the ownership, occupancy and foreclosure status of vacant and abandoned residential properties in order to ensure that, where applicable, the mortgagee is complying with current obligations under Federal, State and/or local law to secure and maintain the property, thereby further depleting limited local resources; and

WHEREAS, relevant provisions of existing State law, enacted in 2009, governing the maintenance of abandoned residential properties impose a duty on plaintiff-mortgagees to maintain vacant residential properties only after a judgment of foreclosure and sale has been entered by a court; and

WHEREAS, this recent State law has in many instances proven inadequate to address the vacant and abandoned properties falling into disrepair in the Town of Brighton and in many similarly situated municipalities across New York State because many such properties are not subject to a pending foreclosure action, and many that are subject to a pending foreclosure have not proceeded, and may not in the foreseeable future proceed, to a court judgment of foreclosure and sale; and

WHEREAS, there is evidence showing that many current and former New York homeowners have been misled into believing they need to leave their homes earlier in the foreclosure process than the law actually requires, thus resulting in even more vacant and abandoned residential properties throughout our communities; and

WHEREAS, the "Abandoned Property Neighborhood Relief Act of 2014" would help the Town of Brighton and similarly situated municipalities and their

residents across the State better address the growing problem of vacant and abandoned residential properties by creating a statewide registry of such properties that can be electronically accessed by such municipalities; and

WHEREAS, the "Abandoned Property Neighborhood Relief Act of 2014" would help the Town of Brighton and similarly situated municipalities and their residents across the State better address the growing problem of vacant and abandoned residential properties by imposing a duty on mortgagees and their loan servicing agents to promptly report these properties to the statewide registry and take earlier, pre-foreclosure, action to identify, secure and maintain such vacant and abandoned properties; and

WHEREAS, the "Abandoned Property Neighborhood Relief Act of 2014" would help the Town of Brighton and similarly situated municipalities and their residents across the State better address the growing problem of vacant and abandoned residential properties by providing a much needed and readily available source of information on vacant and abandoned residential properties to local officials throughout the State; and

WHEREAS, the "Abandoned Property Neighborhood Relief Act of 2014" would help the Town of Brighton and similarly situated municipalities and their residents across the State better address the growing problem of vacant and abandoned residential properties by also establishing a statewide toll-free hotline that community residents can use to report suspected vacant and abandoned properties to the Attorney General and receive information regarding the status of registered properties, including the identity of the mortgagee or agent responsible for maintaining them; and

WHEREAS, the "Abandoned Property Neighborhood Relief Act of 2014" would help the Town of Brighton and similarly situated municipalities and their residents across the State better address the growing problem of vacant and abandoned residential properties by ensuring that homeowners are provided with clear and early notice that they are legally entitled to remain in their homes until ordered to leave by a court; **NOW THEREFORE**,

BE IT RESOLVED, that the Town Board of the Town of Brighton by this Resolution hereby calls on the Governor, the New York State Assembly and the New York State Senate to promptly enact the "Abandoned Property Neighborhood Relief Act of 2014 (A.09341 AND S.7350);" and

BE IT FURTHER RESOLVED, that the Town Clerk is hereby directed to transmit copies of this Resolution to NY State Governor Andrew M. Cuomo, Lt. Governor Robert J. Duffy, Attorney General Eric T. Schneiderman, State Senator Joseph E. Robach, and Assembly Majority Leader Joseph D. Morelle.

Dated: June 11, 2014

William W. Moehle, Supervisor	Voting	_____
James R. Vogel, Councilperson	Voting	_____
Louise Novros, Councilperson	Voting	_____
Christopher K. Werner, Councilperson	Voting	_____
Jason S. DiPonzio, Councilperson	Voting	_____



A09341 Memo:

BILL NUMBER:A9341

TITLE OF BILL: An act establishing the "New York state abandoned property neighborhood relief act of 2014"; and to amend the real property actions and proceedings law, in relation to the duty of the mortgagee or its loan servicing agent to maintain property secured by delinquent mortgage

PURPOSE:

To help community residents and municipalities throughout the State better address the growing problem of vacant and abandoned residential properties by creating a statewide registry of such properties and imposing a duty on mortgagees and their loan servicing agents to report these properties to the registry and take earlier (pre-foreclosure) action to identify, secure and maintain them.

SUMMARY OF SPECIFIC PROVISIONS:

Section 1 establishes the title of the Act as the "New York State Abandoned Property Neighborhood Relief Act of 2014."

Section 2 amends section 1307 of the Real Property Actions and Proceedings Law to: create a definition of "vacant and abandoned" residential real property; expand the existing duty of a mortgagee to maintain vacant residential real property to include pre-foreclosure "vacant and abandoned" residential property as defined in the bill, and to expand such duty to the mortgagee's loan servicing agent; establish a periodic inspection requirement for mortgagees and loan servicing agents to determine if residential real property subject to a delinquent mortgage is currently occupied; and make it unlawful for a mortgagee or loan servicing agent, or a person acting on their behalf, to enter residential real property that is not vacant or abandoned for the purpose of forcing, intimidating, harassing or coercing a lawful occupant thereof to vacate the property in order to render it vacant and abandoned.

Section 3 adds a new section 1307-a to the Real Property Actions and Proceedings Law to: require the Attorney General to establish and maintain a statewide electronic Vacant and Abandoned Property Registry that shall be accessible to local officials across the State; require mortgagees or their agents to promptly submit to the statewide Registry information about vacant and abandoned properties, including but not limited to the current name, address and contact information for the lender or servicer responsible for maintaining the property, whether a foreclosure action has been filed, and any updated material information when it becomes available; authorize a municipality wherein vacant and abandoned residential property is located to intervene as of right in a foreclosure action involving the property for the purpose of requesting injunctive relief to ensure the property is maintained in accordance with law and that the foreclosure action

is timely prosecuted; require the Attorney General to establish and maintain a toll-free hotline that community members concerned about vacant and abandoned properties can call to report such properties and to obtain information relating to such properties, including but not limited to whether a specific property is listed on the Attorney General's statewide Vacant and Abandoned Property Registry and, if so, the identity of the mortgagee or loan servicing company responsible for maintaining the property; and authorize the Attorney General, and any affected locality upon written notice to the Attorney General, to seek injunctive relief and/or civil penalties against mortgagees and/or their agents for violations of RPAPL sections 1307 and 1307-a.

Section 4 establishes an effective date of 180 days after the act shall have become a law.

EXISTING LAW:

Section 1307 of the Real Property Actions and Proceedings Law currently requires a plaintiff in a mortgage foreclosure action who obtains a Judgment of Foreclosure and Sale involving residential real property that is or becomes vacant to maintain the property until such time as ownership of the property has been transferred through the closing of title in foreclosure or other disposition, and the deed is duly recorded.

JUSTIFICATION:

Vacant and abandoned residential properties securing delinquent mortgages fall into disrepair and harm neighboring properties and the surrounding community. These properties are a blight on neighborhoods because they are often boarded up, inhabited by squatters or used for criminal purposes. When a vacant and abandoned property is not maintained for an extended period of time, there is a decline in the community's real estate market and the state's property tax base. There is also an increased likelihood of crime in and around the property. There are instances of such properties being used by criminals to manufacture and/or distribute illegal drugs. Municipalities are often forced to expend taxpayer funds to prevent a vacant and abandoned property from becoming a public hazard. If a municipality is forced to care for a significant number of vacant and abandoned properties, its budget can be depleted quickly.

Current law, enacted in 2009, imposes a duty on plaintiff-mortgagees to maintain vacant residential properties only after a Judgment of Foreclosure and Sale has been entered. Unfortunately, this law has proven inadequate to address the growing number of vacant and abandoned properties falling into disrepair across New York State. A survey in one jurisdiction showed that most vacant and abandoned properties were not subject to foreclosure actions and, if they were, the cases had not proceeded to Judgment of Foreclosure and Sale. In many instances, the plaintiff-mortgagee abandoned the foreclosure effort. In others, the plaintiff-mortgagee sought to vacate its own Judgment of Foreclosure and Sale, bringing the property outside of the existing maintenance requirement imposed on the plaintiff-mortgagee by statute. There is also evidence showing that current and former New York homeowners have been misled into believing they need to leave their homes earlier in the foreclosure process than they actually have

to, resulting in even more vacant and abandoned properties.

In response to this growing threat to communities across New York State, the Abandoned Property Neighborhood Relief Act of 2014 will ensure that homeowners are provided with early notice that they are legally entitled to remain in their homes until ordered to leave by a

court and will require mortgagees and their loan servicers and agents to identify, secure and maintain vacant and abandoned properties much earlier in the mortgage delinquency timeline. It will also require that they electronically register these properties with the newly-created Vacant and Abandoned Property Registry to be established and maintained by the Attorney General. The Registry, in turn, will provide a much needed and readily available source of information on vacant and abandoned residential properties to local officials throughout the State, and will be supplemented by a toll-free hotline that community residents can use to report suspected vacant and abandoned properties to the Attorney General and receive information regarding the status of registered properties, including the identity of the mortgagee or agent responsible for maintaining them.

PRIOR LEGISLATIVE HISTORY:

New bill.

FISCAL IMPLICATIONS:

It is expected that there will be costs to the Office of the Attorney General for the establishment and maintenance of the statewide Vacant and Abandoned Property Registry and the toll-free community resident hotline established by the Act.

EFFECTIVE DATE:

180 days.

A09341 Text:

S T A T E O F N E W Y O R K

9341

I N A S S E M B L Y

April 16, 2014

Introduced by M. of A. WEINSTEIN -- (at request of the Department of Law) -- read once and referred to the Committee on Judiciary

AN ACT establishing the "New York state abandoned property neighborhood relief act of 2014"; and to amend the real property actions and proceedings law, in relation to the duty of the mortgagee or its loan servicing agent to maintain property secured by delinquent mortgage

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as the "New York
2 state abandoned property neighborhood relief act of 2014".
3 S 2. Section 1307 of the real property actions and proceedings law, as
4 added by chapter 507 of the laws of 2009, is amended to read as follows:
5 S 1307. Duty to maintain [foreclosed] property SECURED BY DELINQUENT
6 MORTGAGE. 1. [A plaintiff in a mortgage foreclosure action who obtains
7 a judgment of foreclosure and sale pursuant to section thirteen hundred
8 fifty-one of this article, involving residential real property, as
9 defined in section thirteen hundred five of this article, that is
10 vacant, or becomes vacant after the issuance of such judgment, or is
11 abandoned by the mortgagor but occupied by a tenant] (A) WITH RESPECT TO
12 A MORTGAGE LOAN SECURED BY RESIDENTIAL REAL PROPERTY, as defined under
13 section thirteen hundred five of this article, WHERE THE PROPERTY IS
14 "VACANT AND ABANDONED" AS DEFINED IN PARAGRAPH (B) OF THIS SUBDIVISION
15 OR A FORECLOSURE ACTION HAS BEEN COMMENCED AGAINST THE PROPERTY BECAUSE
16 THE MORTGAGOR HAS FAILED TO MAINTAIN THE PROPERTY OR WHERE A JUDGMENT OF
17 FORECLOSURE UNDER SECTION THIRTEEN HUNDRED FIFTY-ONE OF THIS ARTICLE HAS
18 BEEN OBTAINED ON THE PROPERTY THAT HAS BEEN ABANDONED BY THE MORTGAGOR
19 BUT REMAINS OCCUPIED BY A TENANT LAWFULLY IN POSSESSION, THE MORTGAGEE
20 OR ITS LOAN SERVICING AGENT shall maintain such property until such time
21 as ownership has been transferred through the closing of title in fore-
22 closure, or other disposition, and the deed for such property has been
23 duly recorded; provided, however, that if a municipality or governmental
24 entity holds a mortgage subordinate to one or more mortgages on the
25 residential real property, the municipality or governmental entity shall
26 not be subject to the requirements of this section.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 (B) FOR PURPOSES OF THIS SECTION, RESIDENTIAL REAL PROPERTY SHALL BE
2 DEEMED "VACANT AND ABANDONED" WHEN: (I) AT LEAST THREE MONTHLY PAYMENTS
3 ARE PAST DUE ON THE MORTGAGE LOAN OR THE MORTGAGOR HAS INFORMED THE
4 MORTGAGEE OR LOAN SERVICING COMPANY IN WRITING THAT THE MORTGAGOR DOES
5 NOT INTEND TO OCCUPY THE PROPERTY IN THE FUTURE; AND (II) EITHER: (A)
6 THERE IS A REASONABLE BASIS TO BELIEVE THAT THE PROPERTY IS NOT OCCUPIED
7 WHICH SHALL BE DETERMINED IN ACCORDANCE WITH THE REQUIREMENTS OF PARA-
8 GRAPH (B-1) OF THIS SUBDIVISION; OR (B) A COURT OR OTHER APPROPRIATE
9 STATE OR LOCAL GOVERNMENTAL ENTITY HAS DETERMINED THAT SUCH RESIDENTIAL
10 REAL PROPERTY IS A RISK TO THE HEALTH, SAFETY OR WELFARE OF THE PUBLIC
11 OR ANY ADJOINING OR ADJACENT PROPERTY OWNERS, OR HAS OTHERWISE DECLARED
12 THE PROPERTY UNFIT FOR OCCUPANCY. WHERE A MORTGAGEE OR LOAN SERVICING
13 COMPANY HAS RECEIVED WRITTEN NOTICE FROM A MORTGAGOR THAT SUCH MORTGAGOR
14 DOES NOT INTEND TO OCCUPY SUCH PROPERTY IN THE FUTURE, THE MORTGAGEE OR
15 LOAN SERVICING COMPANY SHALL PROMPTLY NOTIFY THE ATTORNEY GENERAL IN
16 WRITING OF ITS RECEIPT OF SUCH NOTIFICATION AND THE DATE THEREOF.
17 (B-1) FOR PURPOSES OF PARAGRAPH (B) OF THIS SUBDIVISION, A REASONABLE
18 BASIS TO BELIEVE THAT RESIDENTIAL REAL PROPERTY IS NOT OCCUPIED SHALL,
19 AT A MINIMUM, BE BASED UPON PERIODIC INSPECTIONS OF SUCH PROPERTY OVER A
20 TWO-MONTH PERIOD AT DIFFERENT TIMES OF THE DAY WHERE THREE OR MORE SUCH
21 INSPECTIONS REVEAL EVIDENCE OF ABANDONMENT. FOR PURPOSES OF THIS SUBDI-
22 VISION, "EVIDENCE OF ABANDONMENT" SHALL INCLUDE BUT NOT BE LIMITED TO

23 ANY OF THE FOLLOWING CONDITIONS: (I) OVERGROWN OR DEAD VEGETATION; (II)
24 ACCUMULATION OF NEWSPAPERS, CIRCULARS, FLYERS OR MAIL; (III) PAST DUE
25 UTILITY NOTICES, DISCONNECTED UTILITIES, OR UTILITIES NOT IN USE; (IV)
26 ACCUMULATION OF TRASH REFUSE OR OTHER DEBRIS; (V) ABSENCE OF WINDOW
27 COVERINGS SUCH AS CURTAINS, BLINDS, OR SHUTTERS; (VI) ONE OR MORE BOARD-
28 ED, MISSING OR BROKEN WINDOWS; (VII) THE PROPERTY IS OPEN TO CASUAL
29 ENTRY OR TRESPASS; OR (VIII) THE PROPERTY HAS A BUILDING OR STRUCTURE
30 THAT IS OR APPEARS STRUCTURALLY UNSOUND OR HAS ANY OTHER CONDITION THAT
31 PRESENTS A POTENTIAL HAZARD OR DANGER TO THE SAFETY OF PERSONS.

32 (B-2) FOR PURPOSES OF DETERMINING WHETHER RESIDENTIAL REAL PROPERTY IS
33 OCCUPIED, THE MORTGAGEE OR LOAN SERVICING COMPANY SHALL CONDUCT OR CAUSE
34 TO BE CONDUCTED PERIODIC INSPECTIONS OF SUCH PROPERTY AT LEAST ONCE
35 EVERY THIRTY DAYS COMMENCING NO LATER THAN SEVEN DAYS AFTER THE DATE
36 UPON WHICH TWO MORTGAGE PAYMENTS ON SUCH PROPERTY ARE PAST DUE, OR SOON-
37 ER IF SO REQUIRED BY FEDERAL STATUTE, RULE, REGULATION, PUBLISHED GUID-
38 ANCE, OR OTHER REQUIREMENTS OF THE FEDERAL NATIONAL MORTGAGE ASSOCI-
39 ATION, FEDERAL HOME LOAN MORTGAGE CORPORATION OR FEDERAL HOUSING FINANCE
40 AGENCY.

41 (B-3) FOR PURPOSES OF PARAGRAPH (B) OF THIS SUBDIVISION, RESIDENTIAL
42 REAL PROPERTY SHALL NOT BE DEEMED "VACANT AND ABANDONED" WHERE SUCH
43 PROPERTY IS: (I) AN UNOCCUPIED BUILDING WHICH IS UNDERGOING
44 CONSTRUCTION, RENOVATION OR REHABILITATION THAT IS PROCEEDING TO
45 COMPLETION, AND THE BUILDING IS IN COMPLIANCE WITH ALL APPLICABLE ORDI-
46 NANCES, CODES, REGULATIONS AND STATUTES; (II) A BUILDING OCCUPIED ON A
47 SEASONAL BASIS THAT IS OTHERWISE SECURE; (III) A BUILDING THAT IS
48 SECURE, BUT IS THE SUBJECT OF A PROBATE ACTION, ACTION TO QUIET TITLE,
49 OR OTHER SIMILAR OWNERSHIP DISPUTE; (IV) A BUILDING DAMAGED BY A NATURAL
50 DISASTER AND ONE OR MORE OWNER INTENDS TO REPAIR AND REOCCUPY THE PROP-
51 erty; OR (V) OCCUPIED BY THE MORTGAGOR, A RELATIVE OF THE MORTGAGOR OR A
52 TENANT LAWFULLY IN POSSESSION.

53 2. Such [plaintiff] MORTGAGEE AND/OR ITS LOAN SERVICING AGENT shall
54 have the right to peaceably enter upon such property DETERMINED TO BE
55 VACANT AND ABANDONED PURSUANT TO SUBDIVISION ONE OF THIS SECTION, or to
56 cause others to peaceably enter upon the property for the limited
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1 purpose of inspections, repairs and maintenance as required by this
2 section, or as otherwise ordered by court; provided, however, that if
3 the property is occupied by a tenant LAWFULLY IN POSSESSION, at least
4 seven days notice must be given to such tenant, unless emergency repairs
5 are required in which case reasonable notice shall be provided to the
6 tenant.

7 2-A. (A) IT SHALL BE UNLAWFUL FOR A MORTGAGEE, ITS SERVICER OR A THIRD
8 PARTY AGENT OR OTHER PERSON ACTING ON BEHALF OF A MORTGAGEE TO ENTER
9 RESIDENTIAL REAL PROPERTY THAT IS NOT VACANT AND ABANDONED FOR THE
10 PURPOSE OF FORCING, INTIMIDATING, HARASSING OR COERCING A LAWFUL OCCU-
11 PANT OF SUCH RESIDENTIAL PROPERTY TO VACATE THAT PROPERTY IN ORDER TO
12 RENDER THE PROPERTY VACANT AND ABANDONED, OR TO OTHERWISE FORCE, INTIM-
13 IDATE, HARASS, OR COERCE A LAWFUL OCCUPANT OF RESIDENTIAL REAL PROPERTY
14 TO VACATE THAT PROPERTY SO THAT IT MAY BE CONSIDERED AS VACANT AND ABAN-
15 DONED.

16 (B) LIABILITY FOR SUCH UNLAWFUL CONDUCT SHALL EXTEND TO ANY MORTGAGEE
17 FOR WHOSE BENEFIT THE ACTIONS WERE INITIATED, IN ADDITION TO ANY AGENT,
18 EMPLOYEE OR SUBCONTRACTOR OF THE MORTGAGEE WHO RETAINED, HIRED OR OTHER-
19 WISE ENLISTED THE PERPETRATOR.

20 (C) A HOMEOWNER AND/OR OCCUPANT WHO HAS BEEN SUBJECTED TO SUCH UNLAW-
21 FUL CONDUCT MAY BRING AN ACTION FOR DAMAGES AND INJUNCTIVE RELIEF WHICH

22 MAY BE RAISED AS A COUNTERCLAIM IN A FORECLOSURE OR EVICTION PROCEEDING,
23 OR IN ANY OTHER ACTION OR PROCEEDING BROUGHT TO REGAIN POSSESSION OF, OR
24 QUIET TITLE TO, RESIDENTIAL REAL PROPERTY, OR MAY BE RAISED AS AN AFFIR-
25 MATIVE ACTION IN ANY COURT OF COMPETENT JURISDICTION.

26 (D) PUNITIVE DAMAGES, COSTS AND/OR ATTORNEY FEES, MAY BE AWARDED WHEN
27 THE CONDUCT COMPLAINED OF HAS BEEN CARRIED OUT WITH KNOWING DISREGARD OF
28 THE RIGHTS OF THE OCCUPANT OR WAS PART OF A PATTERN OF CONDUCT INTENDED
29 TO SECURE THE VACATING OF PROPERTIES SO THAT THOSE PROPERTIES WOULD BE
30 CONSIDERED AS VACANT AND ABANDONED FOR PURPOSES OF THIS SECTION.

31 3. [The] IN ADDITION TO THE AUTHORITY GRANTED TO THE ATTORNEY GENERAL
32 PURSUANT TO SUBDIVISION THREE OF SECTION THIRTEEN HUNDRED SEVEN-A OF
33 THIS ARTICLE, THE municipality in which such residential real property
34 is located, any tenant lawfully in possession, and a board of managers
35 of a condominium in which the premises are located or a homeowners asso-
36 ciation if said premises are subject to the rules and regulations of
37 such an association, shall have the right to enforce the obligations
38 described in this section in any court of competent jurisdiction after
39 at least seven days notice to the [plaintiff in the foreclosure action]
40 MORTGAGEE OR ITS LOAN SERVICING AGENT unless emergency repairs are
41 required. Any entity acting pursuant to this subdivision shall have a
42 cause of action in any court of competent jurisdiction against the
43 [plaintiff in the foreclosure action] MORTGAGEE OR ITS LOAN SERVICING
44 AGENT to recover costs incurred as a result of maintaining the property.
45 SUCH ENTITY SHALL PROVIDE THE ATTORNEY GENERAL WITH WRITTEN NOTICE AT
46 LEAST TEN DAYS PRIOR TO BRINGING AN ACTION PURSUANT TO THIS SUBDIVISION;
47 PROVIDED, HOWEVER, THAT FAILURE TO COMPLY WITH THIS NOTICE REQUIREMENT
48 SHALL NOT BE A DEFENSE TO THE ENTITY'S PROCEEDING. The authority
49 provided by this subdivision shall be in addition to, and shall not be
50 deemed to diminish or reduce, any rights of the parties described in
51 this section under existing law against the mortgagor of such property
52 for failure to maintain such property.

53 4. In the event the mortgagor of the property commences a proceeding
54 in bankruptcy court prior to the completion of the public auction
55 ordered in the judgment of sale, the duties created by this section
56 shall be suspended during the pendency of the bankruptcy proceeding or
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1 until such time as an order has been entered in that proceeding lifting
2 or removing the automatic stay of the foreclosure sale.

3 5. For the purposes of this section "maintain" shall mean keeping the
4 subject property in a manner that is consistent with the standards set
5 forth in the New York property maintenance code chapter 3 sections 301,
6 302 (excluding 302.2, 302.6 and 302.8), 304.1, 304.3, 304.7, 304.10,
7 304.12, 304.13, 304.15, 304.16, 307.1, and 308.1; provided, however,
8 that if the property is occupied by a tenant, then such property must
9 also be maintained in a safe and habitable condition.

10 6. A [plaintiff] MORTGAGEE OR ITS LOAN SERVICING AGENT shall be
11 relieved of its responsibilities [to maintain the residential real prop-
12 erty that is the subject of a foreclosure action] UNDER PARAGRAPH (A) OF
13 SUBDIVISION ONE OF THIS SECTION for the period that a receiver of such
14 property is serving.

15 7. Nothing contained in this section shall diminish in any way the
16 obligations pursuant to any state or local law of the mortgagor of the
17 property or a receiver of rents and profits appointed in an action to
18 foreclose a mortgage to maintain the property prior to the closing of
19 title pursuant to a foreclosure sale.

20 8. This section shall not preempt, reduce or limit any rights or obli-

21 gations imposed by any local laws with respect to property maintenance
22 and the locality's ability to enforce those laws.

23 S 3. The real property actions and proceedings law is amended by
24 adding a new section 1307-a to read as follows:

25 S 1307-A. DELINQUENT MORTGAGE; VACANT AND ABANDONED PROPERTY; STATE-
26 WIDE VACANT AND ABANDONED PROPERTY ELECTRONIC REGISTRY. 1. WHERE A
27 MORTGAGOR IS THREE MONTHLY PAYMENTS PAST DUE ON A MORTGAGE LOAN SECURED
28 BY RESIDENTIAL REAL PROPERTY, THE MORTGAGEE OR ITS LOAN SERVICING AGENT
29 SHALL PROVIDE WRITTEN NOTICE TO THE MORTGAGOR STATING THAT THE MORTGAGOR
30 HAS THE RIGHT TO OCCUPY THE PROPERTY UNTIL HE OR SHE IS ORDERED TO LEAVE
31 THE PROPERTY BY A COURT OF COMPETENT JURISDICTION. SUCH NOTICE SHALL BE
32 PROVIDED TO THE MORTGAGOR WITHIN FIFTEEN DAYS OF THE DATE THAT THE HOME-
33 OWNER'S ACCOUNT IS PAST DUE BY NINETY DAYS, AND A COPY OF SUCH NOTICE
34 SHALL PROMPTLY BE PROVIDED BY SUCH MORTGAGEE OR LOAN SERVICING AGENT TO
35 THE ATTORNEY GENERAL. THE NOTICE SHALL BE IN FOURTEEN-POINT FONT AND
36 SHALL INCLUDE THE FOLLOWING LANGUAGE IN A CLEAR AND CONSPICUOUS FORMAT:
37 "AS YOUR LOAN SERVICER OR MORTGAGE HOLDER, WE ARE REQUIRED TO SEND YOU
38 THIS NOTICE PURSUANT TO NEW YORK STATE LAW.

39 AS THE OWNER OF YOUR HOME, YOU HAVE THE RIGHT TO OCCUPY YOUR HOME
40 UNTIL SUCH TIME AS YOU ARE ORDERED TO LEAVE BY A COURT OF COMPETENT
41 JURISDICTION.

42 WE MAY INITIATE COLLECTION ACTIVITY INCLUDING TAKING STEPS TO COMMENCE
43 AND LITIGATE A FORECLOSURE LAWSUIT AGAINST YOU AND THE PROPERTY.

44 YOU ARE ALLOWED BY NEW YORK STATE LAW TO CONTINUE LIVING IN YOUR HOME
45 REGARDLESS OF ANY COLLECTION METHODS WE PURSUE OR ORAL OR WRITTEN STATE-
46 MENTS MADE DURING THE COLLECTIONS PROCESS, INCLUDING THE FORECLOSURE
47 PROCESS, UNTIL SUCH TIME AS YOU ARE ORDERED BY A COURT TO LEAVE YOUR
48 PROPERTY."

49 2. (A) THE ATTORNEY GENERAL SHALL MAINTAIN A STATEWIDE VACANT AND
50 ABANDONED PROPERTY REGISTRY IN THE FORM OF AN ELECTRONIC DATABASE. THE
51 ATTORNEY GENERAL MAY, IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF
52 THE STATE FINANCE LAW, RETAIN A PRIVATE CONTRACTOR TO ADMINISTER SUCH
53 DATABASE FOR THE PURPOSES OF SATISFYING THIS REQUIREMENT, AND SHALL,
54 UPON WRITTEN REQUEST, PROVIDE APPROPRIATE OFFICIALS OF ANY CITY, TOWN OR
55 VILLAGE WITH DIRECT ELECTRONIC ACCESS TO INFORMATION MAINTAINED ON SUCH
56 DATABASE FOR THE PURPOSE OF ENFORCING THIS SECTION, SECTION THIRTEEN
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1. HUNDRED SEVEN OF THIS ARTICLE OR ARTICLE NINETEEN-A OF THIS CHAPTER, OR
2 ANY OTHER RELATED LAW, CODE, RULE, REGULATION OR ORDINANCE.

3 (B) A MORTGAGEE OR ITS AGENT SHALL SUBMIT TO THE ATTORNEY GENERAL
4 INFORMATION REQUIRED BY THE ATTORNEY GENERAL ABOUT ANY VACANT AND ABAN-
5 DONED PROPERTY, AS THAT TERM IS DEFINED IN PARAGRAPH (B) OF SUBDIVISION
6 ONE OF SECTION THIRTEEN HUNDRED SEVEN OF THIS ARTICLE, WITHIN FIFTEEN
7 DAYS OF WHEN THE MORTGAGEE OR ITS AGENTS LEARN, OR REASONABLY SHOULD
8 HAVE LEARNED, THAT SUCH PROPERTY IS VACANT AND ABANDONED. SUCH INFORMA-
9 TION SHALL, AT A MINIMUM, INCLUDE: (I) THE CURRENT NAME, ADDRESS AND
10 CONTACT INFORMATION FOR THE LENDER OR SERVICER RESPONSIBLE FOR MAINTAIN-
11 ING THE VACANT PROPERTY; (II) WHETHER A FORECLOSURE ACTION HAS BEEN
12 FILED FOR THE PROPERTY IN QUESTION, AND, IF SO, THE DATE ON WHICH THE
13 FORECLOSURE ACTION WAS COMMENCED; AND (III) THE LAST KNOWN ADDRESS AND
14 CONTACT INFORMATION FOR THE MORTGAGEE OF RECORD.

15 (C) WHERE ANY OF THE INFORMATION CONTAINED IN A MORTGAGEE'S OR ITS
16 AGENT'S INITIAL SUBMISSION TO THE REGISTRY HAS MATERIALLY CHANGED SINCE
17 SUCH SUBMISSION, SUCH MORTGAGEE OR AGENT SHALL MAKE AN AMENDED SUBMISSION
18 TO THE REGISTRY NOT LATER THAN THIRTY DAYS AFTER THE MORTGAGEE OR ITS
19 AGENTS LEARN, OR REASONABLY SHOULD HAVE LEARNED, OF THE NEW OR CHANGED

20 INFORMATION.

21 (D) THE ATTORNEY GENERAL IS AUTHORIZED AND EMPOWERED TO ADOPT SUCH
22 RULES AND REGULATIONS AS MAY IN THE JUDGMENT OF THE ATTORNEY GENERAL BE
23 NECESSARY FOR THE EFFECTIVE ADMINISTRATION AND OPERATION OF SUCH REGIS-
24 TRY, INCLUDING BUT NOT LIMITED TO RULES AND REGULATIONS GOVERNING ACCESS
25 TO THE REGISTRY AND SPECIFYING THE MANNER AND FREQUENCY OF REGISTRATION
26 AND THE INFORMATION THAT MUST BE PROVIDED. THE ATTORNEY GENERAL MAY
27 AMEND SUCH REGULATIONS FROM TIME TO TIME AS NECESSARY TO EFFECTUATE THE
28 PURPOSE OF THIS SECTION AND SECTION THIRTEEN HUNDRED SEVEN OF THIS ARTI-
29 CLE.

30 (E) THE ATTORNEY GENERAL SHALL ESTABLISH AND MAINTAIN A TOLL-FREE
31 HOTLINE THAT NEIGHBORS OF REAL PROPERTY THAT IS, OR APPEARS TO BE,
32 VACANT AND ABANDONED RESIDENTIAL PROPERTY, AS SUCH TERM IS DEFINED IN
33 PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION THIRTEEN HUNDRED SEVEN OF
34 THIS ARTICLE, AND OTHER COMMUNITY RESIDENTS CAN USE TO REPORT TO THE
35 ATTORNEY GENERAL ANY HAZARDS, BLIGHT OR OTHER CONCERNS RELATED TO SUCH
36 PROPERTY AND TO OBTAIN PUBLICLY AVAILABLE INFORMATION CONCERNING THE
37 STATUS OF SUCH PROPERTY. SUCH PUBLICLY AVAILABLE INFORMATION SHALL
38 INCLUDE BUT NOT BE LIMITED TO WHETHER SUCH PROPERTY IS CURRENTLY LISTED
39 ON THE STATEWIDE VACANT AND ABANDONED PROPERTY REGISTRY ESTABLISHED
40 PURSUANT TO THIS SUBDIVISION, AND THE IDENTITY OF THE MORTGAGEE OR LOAN
41 SERVICING COMPANY RESPONSIBLE FOR MAINTAINING SUCH VACANT AND ABANDONED
42 PROPERTY PURSUANT TO SUBDIVISION ONE OF THIS SECTION. THE OFFICE OF THE
43 ATTORNEY GENERAL SHALL INCLUDE ON ITS OFFICIAL PUBLIC WEBSITE INFORMA-
44 TION ABOUT SUCH TOLL-FREE HOTLINE.

45 3. (A) WHENEVER A MORTGAGEE OR AGENT OF A MORTGAGEE SHALL VIOLATE THIS
46 SECTION OR SECTION THIRTEEN HUNDRED SEVEN OF THIS ARTICLE, AN APPLICA-
47 TION MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF
48 THE STATE OF NEW YORK TO A COURT OR JUSTICE HAVING JURISDICTION BY A
49 SPECIAL PROCEEDING TO ISSUE AN INJUNCTION, AND UPON NOTICE TO THE
50 DEFENDANT OF NOT LESS THAN FIVE DAYS, TO ENJOIN OR RESTRAIN THE CONTIN-
51 UANCE OF SUCH VIOLATION; AND IF IT SHALL APPEAR TO THE SATISFACTION OF
52 THE COURT OR JUSTICE THAT THE DEFENDANT HAS, IN FACT, VIOLATED THIS
53 SECTION OR SECTION THIRTEEN HUNDRED SEVEN OF THIS ARTICLE, AN INJUNCTION
54 MAY BE ISSUED BY SUCH COURT OR JUSTICE, ENJOINING AND RESTRAINING ANY
55 FURTHER VIOLATION, WITHOUT REQUIRING PROOF THAT ANY PERSON HAS, IN FACT,
56 BEEN INJURED OR DAMAGED THEREBY. IN CONNECTION WITH ANY SUCH PROPOSED
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1 APPLICATION, THE ATTORNEY GENERAL IS AUTHORIZED TO TAKE PROOF AND MAKE A
2 DETERMINATION OF THE RELEVANT FACTS AND TO ISSUE SUBPOENAS IN ACCORDANCE
3 WITH THE CIVIL PRACTICE LAW AND RULES.

4 (B) IN ADDITION TO, OR IN LIEU OF, THE RELIEF AUTHORIZED IN PARAGRAPHS
5 (A) AND (C) OF THIS SUBDIVISION, A MUNICIPALITY WHERE THE PROPERTY IS
6 LOCATED MAY INTERVENE AS A MATTER OF RIGHT IN ANY FORECLOSURE ACTION
7 COMMENCED UNDER THIS ARTICLE FOR THE PURPOSES OF REQUESTING INJUNCTIVE
8 RELIEF TO ASSURE THAT THE PROPERTY IN QUESTION IS MAINTAINED IN ACCORD-
9 ANCE WITH ALL ORDINANCES, CODES REGULATIONS AND STATUTES AND THAT THE
10 FORECLOSURE ACTION IS TIMELY PROSECUTED. THE INTERVENOR MAY MOVE TO HAVE
11 ANY ADJOURNMENTS OR VOLUNTARY DISCONTINUANCES IN SUCH FORECLOSURE ACTION
12 CONDITIONED UPON THE POSTING OF A BOND OR OTHER UNDERTAKING OR TO ORDER
13 OTHER MEASURES INTENDED TO ENSURE ONGOING MAINTENANCE OF THE PROPERTY
14 UNTIL SUCH TIME AS TITLE TO THE PROPERTY HAS BEEN TRANSFERRED THROUGH A
15 FORECLOSURE SALE OR OTHERWISE. INTERVENTION IN A FORECLOSURE ACTION
16 PURSUANT TO THIS PARAGRAPH SHALL BE AVAILABLE WITH RESPECT TO ANY RESI-
17 DENTIAL PROPERTY SECURED BY A MORTGAGE LOAN AS DEFINED UNDER SECTION
18 THIRTEEN HUNDRED FIVE OF THIS ARTICLE, REGARDLESS OF WHETHER THE PROPER-

19 TY IS OCCUPIED, SO LONG AS ONE OF THE OTHER CONDITIONS DESCRIBED IN
20 PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION THIRTEEN HUNDRED SEVEN OF
21 THIS ARTICLE IS PRESENT.

22 (C) WHENEVER THE COURT SHALL DETERMINE THAT A VIOLATION OF THIS
23 SECTION OR SECTION THIRTEEN HUNDRED SEVEN OF THIS ARTICLE BY A MORTGAGEE
24 OR AGENT OF A MORTGAGEE HAS OCCURRED, THE COURT MAY IMPOSE A CIVIL
25 PENALTY OF UP TO ONE THOUSAND DOLLARS PER DAY FOR EACH DAY THE VIOLATION
26 PERSISTED IN ADDITION TO THE COSTS OF MAINTAINING THE PROPERTY.

27 (D) THE PROVISIONS OF THIS SECTION MAY ALSO BE ENFORCED BY ANY LOCALI-
28 TY OR MUNICIPALITY IN WHICH THE VACANT PROPERTY IS LOCATED, PROVIDED
29 THAT THE LOCALITY OR MUNICIPALITY PROVIDES THE ATTORNEY GENERAL WITH
30 WRITTEN NOTICE AT LEAST TEN DAYS PRIOR TO COMMENCING SUCH AN ACTION
31 UNDER THIS SECTION; AND PROVIDED FURTHER THAT FAILURE TO COMPLY WITH
32 THIS NOTICE REQUIREMENT SHALL NOT BE A DEFENSE TO THE LOCALITY'S OR
33 MUNICIPALITY'S PROCEEDING.

34 4. THIS SECTION SHALL NOT PREEMPT, REDUCE OR LIMIT ANY RIGHTS OR OBLI-
35 GATIONS IMPOSED BY ANY LOCAL LAW WITH RESPECT TO PROPERTY MAINTENANCE
36 AND THE LOCALITY'S ABILITY TO ENFORCE THOSE LAWS.

37 S 4. This act shall take effect on the one hundred eightieth day after
38 it shall have become a law; provided, however, that effective immediate-
39 ly, the addition and/or repeal of any rule or regulation necessary for
40 the implementation of this act on its effective date are authorized and
41 directed to be made and completed on or before such effective date.