

WORKSHOP MEETING  
TOWN BOARD TOWN OF MARLBOROUGH  
AUGUST 25, 2014 7:00 PM  
MINUTES OF MEETING

PRESENT: SUPERVISOR OSBORN  
COUNCILMAN CORCORAN  
COUNCILMAN KOENIG  
COUNCILMAN BAKER

PATRICIA HAIDAOU, DEPUTY SUPERVISOR  
COLLEEN CORCORAN, TOWN CLERK  
DANIELLE CHERUBINI, DEPUTY TOWN CLERK

ABSENT: COUNCILMAN MOLINELLI

ITEM #1 Call to order - Pledge of Allegiance

ITEM #2 Moment of Silence

*A moment of silence was observed for Larry Diorio.*

ITEM #3 Motion to approve agenda

***Councilman Corcoran made a motion to amend the agenda to include Resolution #69 To approve a purchase of a 2014 Dodge Charger from general fund. Motion seconded by Councilman Koenig.***

***Yeas: 4                      Nays: 0                      Carried***

***Councilman Corcoran made a motion to amend the agenda to include Resolution #70 To adopt Local Law #\_\_\_for zoning amendments. Motion seconded by Councilman Koenig.***

***Yeas: 4                      Nays: 0                      Carried***

***Councilman Corcoran made a motion to approve the agenda as amended. Motion seconded by Councilman Baker.***

***Yeas: 4                      Nays: 0                      Carried***

ITEM #4 Motion to approve minutes from the August 11, 2014 public hearing and meeting  
***Councilman Baker made a motion to approve minutes from the August 11, 2014 public hearing and meeting. Motion seconded by Councilman Corcoran.***

***Yeas: 4                      Nays: 0                      Carried***

ITEM #5 Authorize payment of bills

***Councilman Corcoran made a motion to pay the abstract in the amount of \$378,272.80.  
Motion seconded by Councilman Baker.***

***Yeas: 4***

***Nays: 0***

***Carried***

ITEM #6 Comments on the agenda

*Ralph Walters asked if the police car is being purchased through state bid and also if it is a replacement vehicle or for the chief.*

*Councilman Baker stated that the police car is being purchased through state bid and it is a replacement vehicle, and not for the chief.*

ITEM #7 Workshop topics

A). Water Supply

*Councilman Koenig reported that Charlie Muggeo, Cliff Rood, Gael Appler Jr., and Gerry Moerschell (Commissioner of Public Works in Westchester County) along with himself and Councilman Molinelli will be on the new water committee. The committee members have a lot of knowledge with different aspects of the water system. He would also like to ask Tony Falco. They plan to look at older plans and studies so there are no redundancies. They will ask the engineer who drew up the original plans to come to either a workshop meeting or a committee meeting.*

*Supervisor Osborn said the Town attorney has been investigating our legal rights to aqueduct water and we should have an answer soon. Supervisor Osborn spoke with Bill Richardson from the DEP. When our Town received the recent document from Newburgh it stated there would be no secondary supply. Bill Richardson told Supervisor Osborn that the DEP is working on a project that is interconnecting the municipal supplies and is designed to handle Marlboro and Newburgh. He asked Mr. Richardson if he would speak to Newburgh and find out what the water agreement meant. Mr. Richardson spoke to Newburgh and he said Newburgh hasn't finalized the agreement to interconnect the system but they are not far from doing so and they sent the letter out prior to finalizing the interconnection. The Town hasn't heard from Newburgh since the recent document they sent out and it is unclear why they would send out a document like that when the DEP is close to finalizing an interconnection.*

*Supervisor Osborn suggested that when Ron Blass finds out what our legal rights are, that information can be given to the water group. Then when there are documents finalizing the interconnection then the Town can explore the idea of a document with Newburgh.*

*Councilman Baker asked if in the agreement Newburgh sent, the main concern was not having a backup with Newburgh.*

*Supervisor Osborn said they should still actively pursue building our own filtration plant because we don't know if we got an economy of scale.*

*Councilman Baker pointed out that the Town received information a few years back with a similar price tag as to what was on the recent document so that wasn't a surprise.*

*Councilman Koenig explained that the monetary figure wasn't a surprise. The agreement guaranteed us 1 million gallon per day and we are now at 600,000 gallons per day so that limits us for any future growth. The agreement also includes a termination clause after 30 years.*

*Councilman Baker said that running a filtration plant would have its own issues.*

*Councilman Koenig said we would need to contract a certified operator. He added that municipalities around us are struggling to find water and with the agreement with Newburgh we wouldn't even be able to sell any water that would be in excess to our usage up to the allowed 1 million gallons per day.*

*Councilman Corcoran asked if the Town is responsible to pay the 4 million dollars to Newburgh regardless of what we do.*

*Councilman Koenig said the way he read the document was that if we don't use their water for 60 days they would terminate the agreement, so it doesn't seem that we would be.*

*Councilman Baker said he all for the Town coming up with a plan because it also doesn't look like anything is happening with Highland.*

*Councilman Koenig said that if we were bound to the agreement with Newburgh nothing could happen with Highland because we can't sell water. New Paltz is also going to be in need of water soon.*

*Supervisor Osborn said Barton & Loguidice was going to look into how much it would cost the Town to build its own plant and he suggested that the Board hold off with Barton & Loguidice and see what the new water committee comes up with. If there is no economy of scale with Newburgh, the Town could have its own plant even if it costs slightly more.*

*Ralph Walters said he remembers from the last meeting that the Board would look into paying Newburgh 4.5 million over 30 years vs. paying off a bond over 30 years to build our own plant. He added that the Marlboro tap is sealed and all the water is coming up to the Newburgh tap. He recalls New York City saying they wanted the water to come from the larger tap. He asked if the tap can be legally activated if the Town built their own plant. He also recalls that when Marlboro first connected to the aqueduct when the tap was built, there was an agreement that we would always be guaranteed water.*

*Councilman Koenig said the water committee is looking into all of this and we will get answers from legal.*

*Mr. Walters asked if he could be on the water committee since he has years of knowledge and he is aware of what other surrounding towns are facing as well.*

*Councilman Koenig said Mr. Walters is on the committee.*

*Supervisor Osborn said that at the last meeting the Board asked him to contact state officials regarding the pilot program and Danskammer. He did not contact anyone because he doesn't want to hinder the schools ability to come up with their own solution. He suggested that the Board speak to the School Board or the Superintendent for further information.*

#### **ITEM #8 Old Business**

##### **A). Wyms Heights**

*Supervisor Osborn said there are residents from Wyms Heights at the meeting tonight and asked Tom Corcoran to give an update.*

*Tom Corcoran said the Town is still waiting for a reply from Mr. Kovacs, the town attorney. He has placed a no occupancy sticker on the door. The property has been vacated, social services placed the family.*

*Jaqueline Relyea, a resident of Wyms Heights, said Mr. Corcoran updated her on the situation. She stated that the family at 4 Wyms Height vacated the property on July 30<sup>th</sup>.*

*They come back every week, the lights have been left on, the windows are broken, and there*

*is still trash in the front yard. She asked if the Town has run a title search because she would like to know if they still own the property.*

*Tom Corcoran said that he only has access to the county records not the banks records and the property taxes were paid.*

*Jaqueline Relyea said she spoke with the County Clerk's Office and they said in 2010 the property was beginning to go into foreclosure. She spoke with the attorney who was the referee at the time and the deed is still in the homeowner's name. The referee suggested that the Town's attorney do a title search. Ms. Relyea added that she spoke with Bank of NY Melon and Aquin Mortgage Servicing and they said the property could be listed on hubzu.com but she checked and it isn't. She asked if the Health Department has been in contact with the Town or the Town attorney, since they were supposed to for two years after the last incident. She was told the Health Department could go in the house to do a thorough investigation. Ms. Relyea added Attorney Andrew Zweben should be on the case and he spoke with someone from the Health Department so she suggested letting Mr. Kovacs know that Mr. Zweben is on the case as well.*

*Supervisor Osborn said that when he gets an update from Mr. Kovacs he will let her know.*

**B). Town Healthcare benefits**

*Supervisor Osborn said they are looking for an alternate source for healthcare and introducing that to the unions.*

**C). TOMVAC**

*Supervisor Osborn said Thomas O. Miller is interested in the building but they need a good source of water so the well at TOMVAC will need to be checked.*

**D). New Town Hall**

*Supervisor Osborn said the next meeting will be at the New Town Hall.*

**E). McLaughlin Drive**

*Supervisor Osborn said that Resolution #67 on tonight's agenda has bearing on the McLaughlin Drive issue. Kedem put in a sewer plant to handle their own wastewater. The approximate 250 acres of the Kedem property is going to come under the Town's stormwater regulations. This would give the Town the right to manage stormwater on the Kedem property.*

*Councilman Baker added that having this easement put in place is a condition of Kedem getting final site plan approval from the Planning Board.*

*Councilman Corcoran and Councilman Koenig felt they wanted more clarity on the Resolution because they would like to know for sure if the Town or Kedem is liable for problems that may arise in the future.*

***Councilman Koenig made a motion to table Resolution #67 To authorize agreement with Royal Wine Corporation. Motion seconded by Councilman Corcoran.***

***Yeas: 4***

***Nays: 0***

***Carried***

**F). Labor Negotiations**

*No new information*

**G). Survey of St. Andrews property for purchase**

*No new information*

H). Ethics Board Open Position

*Supervisor Osborn said Resolution #68 To appoint a member to the Board of Ethics and the Board voted at this time.*

*The Board congratulated Mike Dovich.*

***Councilman Corcoran made a motion to remove Letter H) Ethics Board Open Position from Old Business on the agenda. Motion seconded by Councilman Koenig.***

***Yeas: 4***

***Nays: 0***

***Carried***

I). Water connection to Highland

*No new information*

J). Ulster County URGENT task force

*No new information*

K). 9W Cross Walk at Pizza Town

*No new information*

L). Business Corridor Overlay district

*See Resolution #70*

M). Municipal Parking

*Supervisor Osborn reiterated from the last Town Board meeting that they are looking into putting in a parking lot behind the bakery in Marlboro. Mr. Kraiza who owns the building next to the bakery does not seem to be in a hurry to sell his building to the Town. The Economic Development Committee is looking at another area for parking. The lot is on the corner of DuBois Street and 9W. The owner of that lot is receptive to the Town making an offer. He asked the Board to get an appraisal on that lot.*

*The Board discussed getting an appraisal and Councilman Corcoran suggested that for now they could get an informal appraisal from the realtor they use for TOMVAC and ask the assessor for the assessed value.*

N). Barton and Loguidice engineering services Agreement groundwater exploration

*See workshop topics*

O). Proposed agreement with Newburgh

*See workshop topics*

P). Open position of the Board of Assessment Review

*Councilman Koenig said they had one interview already and Councilman Molinelli was going to contact the other applicant to set up an interview.*

Q). Summer Camp recommendations

*Supervisor Osborn said that he and Councilman Corcoran and Pierre Ferguson met and spoke about the recommendations and Mr. Ferguson is going to have a closing meeting with the camp counselors to go over the recommendations. Supervisor Osborn thanked Patti Haidaoui for coming up with the recommendations.*

*Patti Haidaoui said she made up the recommendations based on issues that arose over time and there are some new ideas included too.*

*Councilman Baker asked if the bathrooms at the park are completed.*

*Councilman Corcoran said the bathrooms are completed, they will submit final payment minus 5% (the Town can hold 5% for up to six months) in case there are any plumbing or other issues.*

*Councilman Baker said the hood in the kitchen isn't working and he asked when the landscaping will get done.*

*Councilman Corcoran was aware that the hood wasn't working and Mr. Appler told him they would landscape around October. They will also need to blacktop in front of the new bathrooms.*

*Councilman Koenig is concerned because there are a lot of hanging limbs around the park and he feels the Board should consider hiring a tree service come and look.*

*Councilman Corcoran said that Mr. Appler uses a tree service and they could ask about how much they would charge and they can put it in the budget.*

*Councilman Baker also said that the No Parking on Grass sign was put up at the park.*

*There were comments that people are still parking on the grass.*

*Councilman Corcoran said Chief Coccozza's idea of putting up a fence or railings would be the best way to prevent that.*

#### **ITEM #9 New Business**

*Supervisor Osborn introduced the members of the Hamlet of Milton Association.*

*Councilman Koenig said the association is made up of local business owners and residents who come up with ideas for beautification of the Hamlet.*

*Stephanie Calabrese said they formed a committee in an effort to keep everything beautiful. They get donations and volunteers to help out. They planted flowers and placed them throughout the Hamlet of Milton. Steve Riviuccio used cobblestone to build a planter around the library clock which wasn't working and they got it fixed. In a few weeks, there will be a new Milton sign as you enter Town. They plan to build another planter with the cobblestone.*

*Councilman Koenig said he has been to their meetings and he suggested that they become a formal committee so then they could have access to grants.*

*Three of the members introduced themselves this evening, Vivian Lanzaone, C.J. Hartwell, and Stephanie Calabrese. C.J. Hartwell is the chairperson.*

*They received a round of applause for all of their hard work.*

***Councilman Koenig made a motion to add Hamlet of Milton Association Committee to committees. Councilman Koenig will be their liaison. Motion seconded by Councilman Baker.***

***Yeas: 4***

***Nays: 0***

***Carried***

*Tom Corcoran asked if there is a plan to put sidewalks in from 9W down to the Hamlet and if it would involve the county.*

*Councilman Koenig said he has been to meetings discussing installation of sidewalks from the river to the Hamlet and the Hamlet up to 9W and the county would need to be involved.*

#### ITEM #10 Correspondence

*Supervisor Osborn announced that there will be a Hamlet of Milton Garden Block Party on Sunday, September 14<sup>th</sup> at 10:00AM to celebrate the beautification of the Hamlet. There will be lunch and light snacks by the soon to open Frieda's Bakery & Café.*

*Supervisor Osborn also announced that there will be a fundraiser yard sale and chicken dinner on Saturday, September 6<sup>th</sup> at the Presbyterian Church in Marlboro from 10:00AM to 6:00PM.*

*Supervisor Osborn read a letter from a community member asking to use the pavilion in at no charge for a benefit for the father and family of recently deceased Mason DeCosmo to raise money for a headstone and raise awareness of child abuse.*

*Chief Coccozza said he would be very concerned about the safety and traffic concerns. The Board agreed that this event will likely be heavily attended and there will be safety and traffic concerns.*

#### ITEM #11 Public Comment

*Mark Reynolds asked if Kedem's wastewater plant is for human waste and production waste.*

*Supervisor Osborn said it is just production wastewater.*

#### ITEM #12 Resolutions

A). Resolution #67 To authorize agreement with Royal Wine Corporation  
(Tabled)

B). Resolution #68 To appoint a member to the Board of Ethics

C). Resolution #69 To approve a purchase of a 2014 Dodge Charger from general fund  
*Ralph Walters asked if this purchase is for the vehicle only.*

*Chief Coccozza said that it is for the vehicle only.*

*Councilman Koenig explained that the police cars were taken out of rotation for replacement and they need to begin replacing them again because the cars are old and costing a lot of money to fix. The Town is not saving any money by keeping the old cars, new cars would be under warranty.*

*Mark Reynolds asked Chief if he had an estimate on the items that he will need to put in and on the new car.*

*Chief said he is working on an estimate now. The preliminary estimate he received was for \$9,200.00 for a complete package but that's too much. They may take the lights out of the old Chief's car (2006) and use them on the new car (2014). Everything else would need to be purchased because it wouldn't fit in the new car. He is currently finding ways to decrease the costs. He is hoping to spend about \$6,000.00 for everything and also hoping the car will be done by the end of September.*

D). Resolution #70 To adopt Local Law #1 for zoning amendments

***Councilman Koenig made a motion to amend Resolution #70 to read “Highway Development district” instead of “Highway Display district” under #4 Permitted uses. Motion seconded by Councilman Baker.***

***Yeas: 4***

***Nays: 0***

***Carried***

*Councilman Baker said that at the Public Hearing regarding zoning someone made a comment about multiple dwellings and he just wanted to let the public know that the Board will take the comments and consider them in the future.*

*Supervisor Osborn added that they can add Zoning Changes (Local Law #2) to New Business so the Board can begin adding to the overlay district. One of the items he would like to discuss is multiple dwellings.*

*The Board discussed multiple dwellings and density with Tom Corcoran.*

ITEM #13 Adjournment



August 25, 2014

A). Resolution #67 To authorize agreement with Royal Wine Corporation

Supervisor Osborn proposes the following:

WHEREAS, Royal Wine Corporation and the Town of Marlborough wish to enter into an Offer of Cession Agreement (annexed hereto as Exhibit "A") allowing for the Town to obtain, at its discretion, an easement to make future stormwater improvements on a portion of the lands of Royal Wine Corporation at the Kedem Winery Facility on Route 9W in the Town of Marlborough; and

WHEREAS, the giving of the Offer of Cession Agreement is a condition of Planning Board site plan approval granted on August 19, 2013.

NOW, THEREFORE, IT IS HEREBY RESOLVED, as follows:

1. The Town Board approves of the attached Offer of Cession agreement, and authorizes its Supervisor to execute the agreement, and all related instruments, in the same or substantially the same form.

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

Supervisor Osborn	_____
Councilman Molinelli	_____
Councilman Corcoran	_____
Councilman Baker	_____
Councilman Koenig	_____

DATED: Milton, New York  
August 11, 2014

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Colleen Corcoran, Town Clerk

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**OFFER OF CESSION AGREEMENT**

THIS AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_,  
2014, between **ROYAL WINE CORPORATION**, a organized pursuant  
to the Business Corporation Law of New York State, with a  
mailing address of 1519 Route 9W, Marlborough, New York  
12542, hereinafter referred to as the "OFFEROR", and the  
**TOWN BOARD OF THE TOWN OF MARLBOROUGH**, a municipal  
corporation with offices located at 1650 Route 9W, Milton,  
New York 12547, hereinafter referred to as "MARLBOROUGH";

**W I T N E S S E T H:**

WHEREAS, the Offeror is the fee owner of 28.29 acres  
of improved lands comprising the Kedem Winery Facility,  
said lands being situate on the westerly side of Route 9W  
in the Town of Marlborough, Ulster County, New York, same  
being more particularly depicted and described upon a  
certain Survey Map prepared by Keystone Engineering Group,  
Inc. entitled, "Survey Prepared for Royal Wine  
Corporation/HEP Farms", and bearing last revision date of  
July 23, 2013; and,

WHEREAS, the Offeror has obtained Conditional Final  
Site Development Plan Approval from the Town of Marlborough  
on August 19, 2013 for a 28' x 26' accessory use pole barn  
to be utilized in conjunction with the improvement of the  
existing treatment of wastewater from the Kedem Winery

Facility pursuant to a certain NYSDEC Discharge Permit [SPDES Permit #NY0219011]; and,

WHEREAS, as a condition of the Final Site Development Plan Approval aforesaid, the Offeror, having voluntarily determined to assist with Marlborough's continuing efforts to effect stormwater and drainage improvement within the watershed to which the Kedem Winery Facility drains, said Offeror has committed to grant a non-exclusive stormwater easement to Marlborough pursuant to the Conditional Final Site Development Plan Approval aforesaid; and,

WHEREAS, pursuant to the August 19, 2013 Conditional Final Site Development Plan Approval, the Offeror is forwarding this Offer of Cession, together with the associated Non-Exclusive Stormwater Easement upon the terms, covenants and conditions embodied therein.

NOW THEREFORE, in consideration of the covenants expressed herein and in order to set forth in writing the terms of their agreement, the parties hereto do mutually covenant and agree as follows:

1. In accordance with the August 19, 2013 Conditional Final Site Development Plan Approval, as granted by the Town of Marlborough Planning Board, the Offeror, being the owner in fee simple of the lands over which the non-exclusive stormwater easement shall pass,

does hereby formally offer to cede the non-exclusive easement to the Town of Marlborough for the uses and purposes set forth within a certain Non-Exclusive Stormwater Easement attached hereto as Exhibit "A", which Offer of Cession may not be revoked by the Offeror or any subsequent owners of such lands without the written consent of the Town Board of the Town of Marlborough.

2. An executed original of the Non-Exclusive Stormwater Easement, along with instruments related and necessary to allow recording of that instrument, are herewith delivered to the Town to hold pending acceptance.

3. Upon the formal acceptance by the Town of Marlborough of said non-exclusive stormwater easement, the Offeror consent to the Town of Marlborough's acceptance of delivery and recording of the instrument with the Clerk of Ulster County.

4. This Agreement shall be recorded with the Clerk of Ulster County, shall run with the land, and shall be binding upon and inure to the benefit of and bind the heirs, executors, administrators, representatives, successors and assigns of the parties.

5. This Agreement is fully integrated and shall not be changed, altered or modified orally.

6. This Agreement shall be governed under New York State Law and the venue for all legal proceedings arising hereunder shall be Supreme Court Ulster County.

7. The persons executing this Agreement represent that they are duly authorized to enter into this Agreement on behalf of the entities set forth below.

8. This Agreement may be signed in multiple counterparts, each of which shall constitute an original document.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first above written.

TOWN OF MARLBOROUGH TOWN BOARD

ROYAL WINE CORPORATION

By: \_\_\_\_\_  
STEPHEN OSBORN, Supervisor

By: \_\_\_\_\_

STATE OF NEW YORK       )  
COUNTY OF ULSTER       )ss.:

On the \_\_\_\_\_ day of \_\_\_\_\_, 2014, before me the undersigned, personally appeared STEPHEN OSBORN, personally known to me, or proved to me on the basis of satisfactory evidence, to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK       )  
COUNTY OF ULSTER       )ss.

On the \_\_\_\_\_ day of \_\_\_\_\_, 2014, before me the undersigned, personally appeared \_\_\_\_\_, personally known to me, or proved to me on the basis of satisfactory evidence, to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.

\_\_\_\_\_  
NOTARY PUBLIC

RECORD & RETURN TO:  
RISELEY & MORIELLO, PLLC  
Michael A. Moriello, Esq.  
Post Office Box 4465  
Kingston, New York 12402

**Exhibit A**

**Non-Exclusive Stormwater Easement**



**NON-EXCLUSIVE STORMWATER EASEMENT**

This non-exclusive stormwater easement dated the \_\_\_\_ day of \_\_\_\_\_, 2014, by and between **ROYAL WINE CORPORATION**, a Corporation organized pursuant to the Business Corporation Law of New York State, with an address of 1519 Route 9W, Marlborough, New York, 12542, hereinafter referred to as the "Grantor" and the **TOWN OF MARLBOROUGH**, a municipal corporation, with an address of 1650 Route 9W, Milton, New York, 12547, hereinafter referenced to as the "Grantee".

**W I T N E S S E T H:**

WHEREAS, the Grantor having obtained Conditional Final Site Development Plan Approval from the Town of Marlborough Planning Board on the 19th day of August, 2013, for a 28' x 26' accessory use pole barn at the Kedem Winery premises to be utilized in conjunction with the improvement of the existing treatment of treated wastewater from the Kedem Winery facility pursuant to a certain NYSDEC Discharge Permit [SPDES Permit #NY0219011]; and

WHEREAS, as a condition to the Approval aforesaid, the Grantor has agreed to convey this non-exclusive stormwater easement to the Town of Marlborough in order to facilitate future drainage improvements within the 236 acre watershed of which the subject premises is situate within; and,

WHEREAS, the lands affected by this non-exclusive stormwater easement are 28.29 acres in size, located westerly of Route 9W within the R-Ag1 [Rural Agricultural] Zoning District and more particularly described within Liber 1517 of Deeds, at Page 90 within the Offices of the Ulster County Clerk [S/B/L #109.1-1-2.1]; and,

NOW THEREFORE, in consideration of the sum of ONE DOLLAR (\$1.00), the foregoing administrative approvals and other good and valuable consideration, receipt of which is hereby

~~acknowledged, the Grantor herein hereby grants this non-~~

exclusive stormwater easement to the Grantee upon the covenants herein stated.

1. GRANT OF EASEMENT: Grantor, as the servient tenement, hereby grants to the Grantee, as the dominant tenement, a perpetual non-exclusive stormwater easement and concomitant right to effect drainage and associate stormwater improvements therein, including the right, but not the obligation, to access said easement area over the lands of Grantor in order to maintain, utilize, excavate, repair, retrofit, install, replace, inspect and administer all stormwater drainage over, across and through the non-exclusive stormwater easement area. Said area is more particularly shown upon a plan entitled, "Survey Prepared for Royal Wine Corporation/HEP Farms", latest revision February 18, 2013, as prepared by W.E. James Associates [a reduced copy of said survey is annexed hereto and made a part hereof as Exhibit "A"].

2. EASEMENT DESCRIPTION: The non-exclusive stormwater easement aforesaid is further set forth by metes and bounds description as follows:

BEGINNING at a point on the southerly property line of Kedem Winery said point being the four (4) following courses and distances measured from the southeast property corner of Kedem Winery, North 87 degrees 40 minutes 00 seconds West 62.67 feet to a point, thence North 85 degrees 13 minutes 00 seconds West 240.50 feet to a point, thence North 84 degrees 20 minutes 00 seconds West 209.00 feet to a point, thence North 84 degrees 07 minutes 00 seconds West 14.86 feet, thence from said beginning point the following four courses and distances; North 5 degrees 53 minutes 00 seconds East 30.00 feet to a point, thence North 84 degrees 07 minutes 00 seconds West 20.00 feet to a point, thence South 5 degrees 53 minutes 00 seconds West 30.00 feet to

a point, thence South 84 degrees 07 minutes 00 seconds East 20.00 feet to the first mentioned point and place of beginning.

CONTAINING: Six hundred square feet (600 square feet) to be the same more or less.

3. RESERVATION: Reserving unto the Grantee the right to continue utilizing the non-exclusive stormwater easement area aforesaid for all lawful purposes and for the continuing drainage of stormwater, the facilitation of lawful wastewater discharges from the Kedem Winery Facility and any and all lawful improvements as may be deemed necessary by the Grantee in its sole discretion. Said improvements shall include, but shall not be limited to, the continuing right to maintain, utilize, excavate, repair, retrofit, install, replace, inspect and administer to all wastewater and stormwater facilities, as well as the continuing right to facilitate all of the Grantor's lawful activities pursuant to the NYSDEC Permit aforesaid and all associated regulations as may be promulgated in the future by Federal, State and/or Local authorities.

4. WAIVER OF LIABILITY: To the extent legally permissible, the Grantor and the Grantee shall not be held liable for any claim for property damage or personal injury arising out of the construction, design or condition of the non-exclusive drainage easement, associated improvements and facilities, or any act or omission relating thereto, including, but not limited to its construction, maintenance, upkeep, repair, design or purpose of easement improvements. The Grantor and the Grantee further agree to indemnify, save and hold harmless each other against any loss and damage which may be caused by the wrongful or negligent acts or omissions of the Grantor and/or the Grantee within the easement herein described.

5. NO EFFECT ON RECORDED DOCUMENTS: This Instrument shall not nullify, modify and/or abrogate any recorded documents affecting the servient tenement premises.

6. DAMAGE: Physical alteration and/or damage to the lands of the Grantor, as may be caused by the Grantee in the performance of any work within the easement area, shall be corrected to an extent commensurate with the lands pre-dating said damage; exclusive of the area improved by the inlet control structure, at the sole expense of the Grantee.

7. INVALIDITY: In the event any portion, provisions or terms of this Instrument are determined by a Court of Competent jurisdiction to be invalid or unenforceable, such determination shall not affect the balance of this Agreement, which shall remain in full force and effect.

8. CAPTIONS: The captions in this Instrument are for convenience of reference only and in no way define, limit or describe the scope of this Agreement and shall not be considered in the interpretation of this Agreement or any provision hereof.

9. AUTHORIZATIONS: The persons executing this Instrument on behalf of the Grantor and the Grantee warrant and represent that they possess the authority to so execute.

10. GRANTEE SIGNATURE: The Grantee is hereby signing this Instrument in order to evidence its intention to be bound by the recitals herein and the parties hereby agree to work cooperatively in the future in order to enter into such Agreements as may be reasonably necessary to effect the purposes of this Instrument.

11. NO ORAL CHANGES: This Instrument is fully integrated and shall not be changed orally. This Instrument may only be changed by written document signed by the parties hereto and recorded within the Offices of the Ulster County Clerk.

12. BINDING EFFECT: This non-exclusive drainage easement shall touch, concern and run with the land and the associated covenants, servitudes and conditions contained in the Instrument shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of the respective parties executing this Instrument.

13. GOVERNING LAW: This Instrument shall be governed under New York State Law and the venue for all legal proceedings arising hereunder shall be Ulster County.

14. COUNTERPARTS: This Instrument may be signed in multiple counterparts, each of which shall be considered an original document.

TO HAVE AND TO HOLD the said non-exclusive drainage easement hereby granted unto the Town of Marlborough, its successors and assigns forever.

IN WITNESS WHEREOF, the parties have set their hands and seals to this Instrument upon the date above first written.

ROYAL WINE CORPORATION

By: \_\_\_\_\_

TOWN OF MARLBOROUGH

By: \_\_\_\_\_  
STEPHEN OSBORN, Supervisor

STATE OF NEW YORK     )  
COUNTY OF ULSTER     ) ss.:

On the \_\_\_\_\_ day of \_\_\_\_\_, 2014 before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

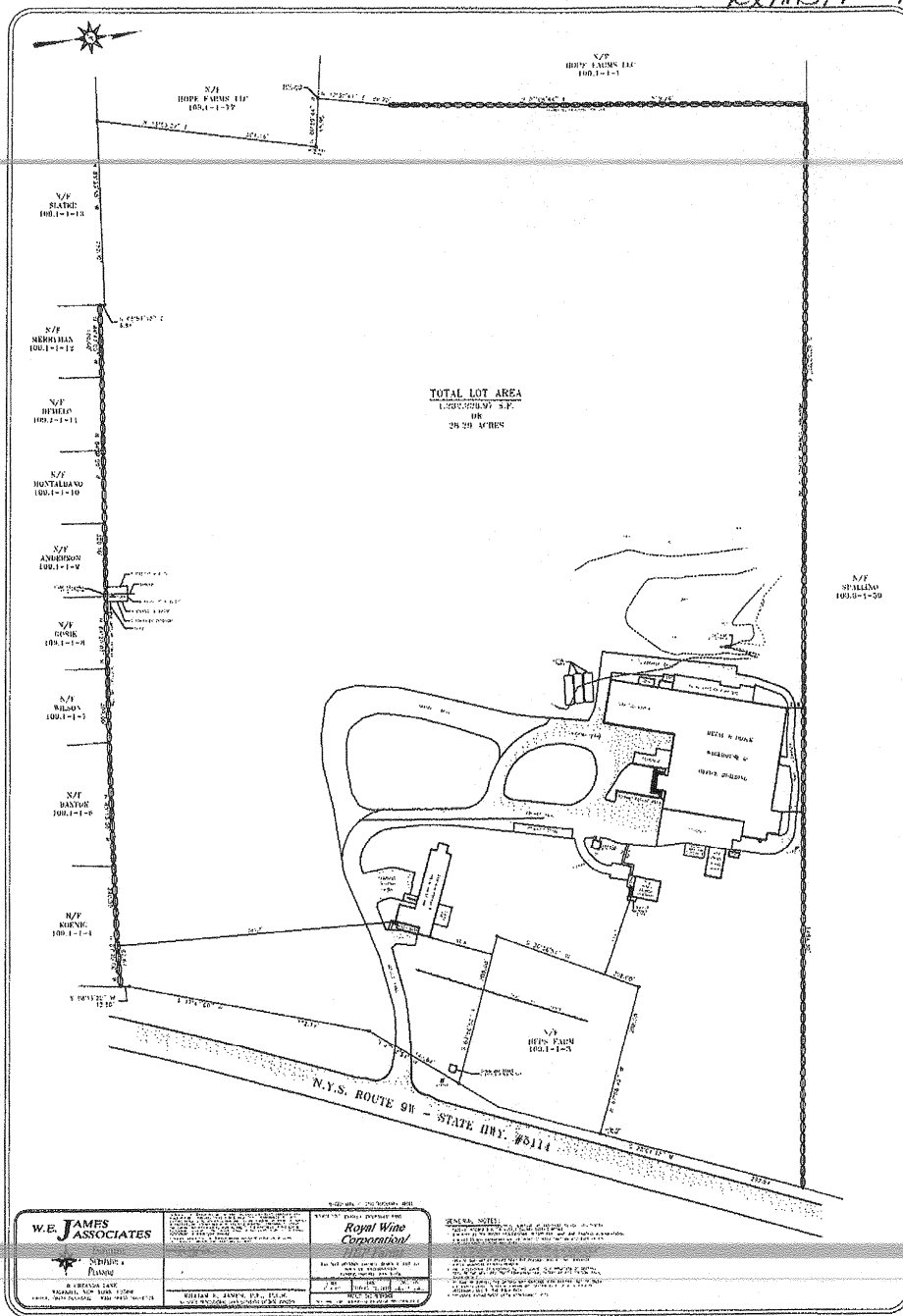
\_\_\_\_\_  
Notary Public

STATE OF NEW YORK     )  
COUNTY OF ULSTER     ) ss.:

On the \_\_\_\_\_ day of \_\_\_\_\_, 2014 before me, the undersigned, personally appeared STEPHEN OSBORN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

Exhibit "A"



August 25, 2014

B). Resolution #68 To appoint a member to the Board of Ethics

Supervisor Osborn proposes the following:

Whereas, the Town of Marlborough had adopted an Ethics Code in 2009, and

Whereas, the Ethics Code establishes a Board of Ethics composed of 5 members appointed by the Town Board, and

Whereas, no more than two members of the Board of Ethics may be enrolled in the same political party, and

Whereas, all member must reside in the Town of Marlborough, and

Whereas, the Town had advertised and interviewed for the vacant position on the board.

Be it resolved, that Mike Dovich be appointed to the Ethics Committee effective immediately with a term of three years as per the Town of Marlborough Ethics Code.

And moves for its adoption

Councilman Corcoran	Yes
Councilman Molinelli	Absent
Councilman Koenig	Yes
Councilman Baker	Yes
Supervisor Osborn	Yes



August 25, 2014

C). Resolution #69 To approve a purchase of a 2014 Dodge Charger from general fund

Supervisor Osborn proposes the following:

Be it resolved that the 2014 Dodge Charger in the amount of \$26,077.00 be purchased from the general fund balance.

And moves for its adoption

Councilman Corcoran	Yes
Councilman Molinelli	Absent
Councilman Koenig	Yes
Councilman Baker	Yes
Supervisor Osborn	Yes

August 25, 2014

D). Resolution #70 To adopt Local Law #1 for zoning amendments

**RESOLUTION**

Supervisor Osborn offered the following resolution, which was seconded by Councilman Corcoran, who moved its adoption:

WHEREAS a Local Law was introduced entitled Local Law No. 1 of 2014, A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK AMENDING VARIOUS PROVISIONS OF CHAPTER 155, "ZONING", OF THE TOWN CODE, INCLUDING ADDING A NEW SECTION 155-12(H) ESTABLISHING A BUSINESS CORRIDOR OVERLAY DISTRICT; AND AMENDING EXISTING SECTIONS 155-12(A) PERTAINING TO PROFESSIONAL OFFICES IN THE R DISTRICT; AND AMENDING 155-12(B) PERTAINING TO PROFESSIONAL OFFICES AND MULTIPLE DWELLINGS IN THE R-1 DISTRICT; AND AMENDING 155-12(D) PERTAINING TO RESIDENTIAL DWELLINGS, MULTIPLE DWELLINGS, BED-AND-BREAKFASTS, MOTELS, AND HOTELS IN THE C-1 DISTRICT; AND AMENDING 155-12(E) PERTAINING TO AUTOMOBILE SERVICE, REPAIR AND FILLING STATIONS IN THE HD DISTRICT; AND AMENDING 155-12(G) PERTAINING TO BED-AND-BREAKFASTS AND MULTIPLE DWELLINGS IN THE C-2 DISTRICT; AND DELETING SECTIONS 155-30(A)(2) AND 155-30(A)(3) PERTAINING TO MULTIPLE DWELLINGS, AND ADDING A NEW SUBDIVISION 155-30(A)(2),

PERTAINING TO THE MULTIPLE DWELLINGS; AND ADDING A NEW SECTION 155-33 PERTAINING TO DISPLAY OF MOTOR VEHICLES FOR SALE; AND AMENDING THE ZONING MAP TO CHANGE VARIOUS DESIGNATED PARCELS FROM THE C-1 DISTRICT TO THE R DISTRICT.

WHEREAS, a public hearing in relation to the original version of this local law was held on July 14, 2014; and

WHEREAS, by resolution dated July 14, 2014, the local law was modified, and a public hearing on the modified version was scheduled for August 11, 2014; and

WHEREAS, a public hearing on the modified version was held on August 11, 2014; and

WHEREAS, notice of said public hearings was given pursuant to the terms and provisions of the Municipal Home Rule Law of the State of New York; and

WHEREAS, the local law in its modified form has been on the desks of the members of the Town Board of the Town of Marlborough for at least seven (7) days, exclusive of Sunday;

NOW, THEREFORE, BE IT RESOLVED that the following local law is hereby enacted: Local Law No. 1 of 2014, A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK AMENDING VARIOUS PROVISIONS OF CHAPTER 155, "ZONING", OF THE TOWN CODE, INCLUDING ADDING A NEW SECTION 155-12(H) ESTABLISHING A BUSINESS CORRIDOR OVERLAY DISTRICT; AND AMENDING EXISTING SECTIONS 155-12(A) PERTAINING TO PROFESSIONAL OFFICES IN THE R DISTRICT; AND

AMENDING 155-12(B) PERTAINING TO PROFESSIONAL OFFICES AND MULTIPLE DWELLINGS IN THE R-1 DISTRICT; AND AMENDING 155-12(D) PERTAINING TO RESIDENTIAL DWELLINGS, MULTIPLE DWELLINGS, BED-AND-BREAKFASTS, MOTELS, AND HOTELS IN THE C-1 DISTRICT; AND AMENDING 155-12(E) PERTAINING TO AUTOMOBILE SERVICE, REPAIR AND FILLING STATIONS IN THE HD DISTRICT; AND AMENDING 155-12(G) PERTAINING TO BED-AND-BREAKFASTS AND MULTIPLE DWELLINGS IN THE C-2 DISTRICT; AND DELETING SECTIONS 155-30(A)(2) AND 155-30(A)(3) PERTAINING TO MULTIPLE DWELLINGS, AND ADDING A NEW SUBDIVISION 155-30(A)(2), PERTAINING TO THE MULTIPLE DWELLINGS; AND ADDING A NEW SECTION 155-33 PERTAINING TO DISPLAY OF MOTOR VEHICLES FOR SALE; AND AMENDING THE ZONING MAP TO CHANGE VARIOUS DESIGNATED PARCELS FROM THE C-1 DISTRICT TO THE R DISTRICT.

Section 1. Chapter 155 of the Marlborough Town Code is amended to add a new Section 155-12(H) reading as follows:

H. BC - Business Corridor Overlay District

(1) Purpose. The Town of Marlborough is bisected along a north to south axis comprising New York State Route 9W which parallels the Hudson River. Historically, the Route 9W corridor has served the Town of Marlborough as both a significant transportation facility and the location of mixed residential, commercial, and light industrial land uses. There are various zoning district designations along the Route 9W corridor, including the HD, R,

C-1, R-1, and RAG-1 districts. Within the areas of the Route 9W corridor which are zoned R-1 or RAG-1, there exist various improved parcels with frontage on the state highway and which are currently, or previously have been, devoted to use of existing structures for commercial or light industrial activities of the type which are currently allowable within the HD zoning district. Some of the existing structures are devoted to commercial or light industrial activities as non-conforming uses in the R-1 or RAG-1 zones. Some of these existing structures are not currently put to commercial or light industrial uses, and exist as meaningful opportunities for readaptation to such uses for the benefit of public commerce and the generation of municipal revenues for the community. The Town Board concludes that a Business Corridor Overlay District, in the nature of a floating zone, is an appropriate device to encourage readaptation of existing unused structures, or to eliminate non-conformities of active uses, within eligible properties within the Route 9W corridor.

(2) The Business Corridor Overlay District is a floating zone which may be established by the Town Board by potential amendment of the Zoning Map, through the exercise by the Town Board of the procedures stated herein, with respect to properties located within eligible areas along the

transportation corridor of Route 9W in the Town of Marlborough, as such areas of eligibility are more particularly defined within sub-section (3) of this Section 155-12(H).

(3) Eligible areas. Parcels located within the R-1 or R-Ag-1 zoning districts within the Town of Marlborough are eligible locations for establishment of a Business Corridor Overlay District if they (a) enjoy highway frontage useable for access to and from Route 9W, and (b) are improved within 250 feet of the right of way line of NYS Route 9W by an existing building(s) either currently devoted to commercial, retail, office, or light industrial activities, or if not currently devoted to such uses, the building was predominately devoted to such uses in the past according to land records or other written evidence deemed acceptable and convincing to the Town Board.

(4) Permitted uses. In the event that the Town Board establishes a Business Corridor Overlay District designation, the principal permitted uses, the permitted accessory uses, and the permitted special uses of the property shall be those uses which are allowable within the HD - Highway Development district, subject to the same lot, height, yard and any supplemental regulations applicable to the subject use of the property in the event that it had been situated within the HD

district. However, new and used car sales, and adult entertainment uses, shall be prohibited in a BC district.

(5) Procedure for establishment.

(a) Petitions for the establishment of a Business Corridor Overlay District by amendment of the Zoning Map shall be made in writing to the Town Board. Applications shall be made by the owner or owners of the land proposed to be included in such district or by a person or persons possessing written contract or option rights to purchase such lands. In the event that an application is made by a person or persons holding contract or option rights to purchase the lands, the application shall be accompanied by a statement signed by the owner or owners granting authority on the part of such applicant to make the application. Upon submission of a complete application, the Town Board shall refer the application to the Planning Board for recommendation.

(b) Application materials. The applicant shall submit a conceptual development plan of sufficient detail as shall be determined by the Town Board. The conceptual development plan shall consist, at a minimum, of the following:

(1) A metes and bounds description of the proposed district;

(2) A survey of the land prepared and certified by a licensed land surveyor;

(3) A map drawn to scale showing existing conditions of the parcel, including:

[i] The name and address of the owner of record and, if the applicant is not the owner, then also the applicant;

[ii] The name of the person or firm preparing the plan;

[iii] The date, north arrow and scale of the plan;

[iv] The names, addresses and tax map parcels of owners of all parcels within 500 feet of the subject property. The applicant shall include



mailing labels for all property owners of parcels within 500 feet of the subject parcel;

[v] The acreage of the parcel and the tax number or numbers;

[vi] The location and width of existing and proposed state, county or town highways or streets and rights-of-way abutting or within 200 feet of the parcel;

[vii] The approximate location and outline of existing structures both on the parcel and within 100 feet of the property line;

[viii] The location of any existing storm or sanitary sewers, culverts, water lines, hydrants, catch basins, manholes and other visible infrastructure as well as other utilities within or adjacent to the parcel;

[ix] The existing zoning of the parcel;

[x] The approximate location and outline of existing water bodies, streams, marshes or wetland areas and their respective classification as determined by the appropriate governmental regulatory body;

[xi] The approximate boundaries of any areas subject to flooding or stormwater overflows;

[xii] The location and outline of existing vegetation clusters (for a distance of 50 feet onto adjoining property);

[xiii] The identification of any other significant natural features.

(4) The conceptual development plan, drawn approximately to scale, shall clearly show the following:

[i] The approximate location and dimension of proposed principal and accessory buildings on the site and their relationship to one another, and to other structures in the vicinity;

[ii] The approximate location and dimensions of vehicular traffic circulation features of the site, including proposed roadways, internal driveways, parking and loading areas, and proposed access to the site;

[iii] The proposed source of water supply and method of delivery to the site;

[iv] A general plan for the collection and disposal of sanitary waste from the site;

[v] A general plan of proposed stormwater management facilities;

[vi] Preliminary identification of areas which will be disturbed and areas which will remain undisturbed by project implementation.

(5) A vicinity map showing the proposed use in relationship to adjoining uses, transit services, food stores, community facilities, social service facilities, medical facilities and pharmacy and religious institutions.

(6) Preliminary architectural treatment of any readapted or new buildings.

(c) Initial Review:

(1) In its review of the application, the Town Board may suggest such changes in the conceptual plan as are found to be necessary or desirable by the Town Board in order to meet the requirements of this section. The Town Board may notify the applicant of such changes and may discuss such changes with the applicant. The suggestion of changes by the Town Board shall not constitute a waiver of its legislative discretion to reject or deny the rezoning application.

(d) Town Board review.

(1) Upon receipt of a recommendation from the Planning Board, the Town Board may schedule and hold a public hearing. Alternatively, the Town Board may reject the application.

(2) Following completion of the public hearing, the Town Board may act to approve, approve with modifications or conditions, or disapprove the rezoning application in the exercise of its sole legislative discretion. Approval shall result in amendment of the Zoning Map established by this chapter.

(e) Criteria for rezoning to Business Corridor Overlay District. In determining whether or not amend the Zoning Map for a BC district, the Town Board shall consider, together with the intent and objectives of this section, whether the proposed district and conceptual development plan meet the following criteria:

(1) How the site be served by potable water and sanitary sewer facilities, and whether such facilities will be adequate to accommodate any additional demand placed upon them by the proposed development or readaptation;

(2) Whether the site is well drained, and stormwater generated by development of the site shall not place

an undue burden on existing facilities or contribute to downstream flooding;

(3) Whether the site is located in an area suitable for the proposed elimination of non-conformity or readaptation of buildings and site development so as to be reasonably free of objectionable conditions such as odors, noise, dust, air pollution, traffic volumes beyond the capacity of the existing road system or proposed road improvements, and other environmental constraints;

(4) The site shall be located in a manner that allows access to the site from a public street with adequate site distances and that meets current engineering standards of the Town;

(5) The architectural style of any proposed readaptation or modification of development and exterior materials, finish and color shall be consistent with the character of nearby properties;

(6) The readaptation or modification of the site shall not produce undue adverse effects on the surrounding neighborhood;

(7) The extent to which the scope and design of the project will establish a worthwhile asset for this segment of the community and the community as a whole.

(f) Time limit on validity of rezoning. Any zoning permitted by this section shall be null and void and the zoning of the parcel shall revert back to its original zoning classification by a ministerial designation on the Zoning Map by the Town Clerk, when directed by the Town Board, unless actual construction, pursuant to an approved site plan and a valid building permit is commenced within two (2) years from the date of adoption by the Planning Board of a resolution of site plan approval following the rezoning.

(g) Fee. An application fee shall be charged in the amount provided for in the relevant fee schedule prevailing at the time of application. Actual consultant expenses incurred by the Town at all stages of processing a project

under this section shall be defrayed by the applicant as provided within this chapter.

(h) Site plan approval. Following a zoning amendment to create a BC district, site plan and or special use permit review and approval by the Planning Board shall be required prior to the issuance of a building permit for any readaptation or modification of development of the property to the same degree, and to the same extent, that such activity would be subject to site plan or special use permit review if it was located within the HD district.

(i) Conformity to conceptual development plan. The Planning Board shall not approve any site plan or special use permit within a BC district unless said Board finds that the plan is in substantial conformance with the conceptual development plan that was submitted to the Town Board and that served as the basis for the zone change to a BC district.

Section 2. Section 155-12(A)(4)(i) is amended to remove "Professional office" as a special use, and to re-letter subdivisions (4)(j) and (4)(k) to become subdivisions (4)(i) and (4)(j), respectively.



Section 3. Section 155-12(B)(4)(j) is amended to remove "Professional office" as a special use, and to re-letter subdivisions (4)(k) and (4)(l) to become subdivisions (4)(j) and (4)(k), respectively.

Section 4. Section 155-12(B) is amended to add a subdivision (4)(l) designating Multiple dwellings as a special use.

Section 5. Section 155-12(D)(2) is amended to delete subdivision (2)(g) designating one-family or two-family dwellings as a principal permitted use.

Section 6. Section 155-12(D)(4) is amended to delete subdivisions (4)(f) and (4)(g) designating Multiple dwellings and Bed-and-breakfast as special uses.

Section 7. Section 155-12(D)(4)(c) is amended to change the word Motels to Hotels.

Section 8. Section 155-12(E)(4)(a) is amended to change the words "Gasoline service stations" to read "Automobile service, repair and filling stations".

Section 9. Section 155-12(G)(4) is amended to remove subdivisions (4)(f) and (4)(h), Bed-and-breakfast and Multiple dwellings, respectively, as special uses, and to re-letter subdivision (4)(g) to become subdivision (4)(f).

Section 10. Section 155-30(A)(2) is deleted.

Section 11. Section 155-30(A)(3) is deleted.

Section 12. Section 155-30(A) is amended to a new subdivision (2) reading as follows:

(2) R-1 District.

(a) Minimum lot area shall be (10) ten acres.

(b) Lots shall be served by and utilize public water and sewer.

(c) Setbacks for front yard shall be minimum 75 feet, each side yard shall be minimum 75 feet and rear yard shall be minimum 75 feet.

(d) Maximum density shall be six dwelling units per acre.

(e) Extension of a public water or sewer service area shall not burden an existing water or sewer district with any cost or debt associated with the extension

Section 13. Article VI of Chapter 155 is amended to add a new section 155-33 entitled "Display of motor vehicles" reading as follows:

"This section shall apply in all zoning districts. No premises may be used for the display for sale of any motor vehicle, unless the premises are covered by current and valid local approvals under the provisions of this Chapter for the commercial display and sale of motor vehicles. Except, however, an owner of premises may display for private sale one motor vehicle which is in the title of an owner of the premises."

Section 14. The Zoning Map established within Section 155-8 of Chapter of 155 of the Town Code is amended to change the following parcels, identified by Tax Parcel Number, from the C-1 District to the R District:

108.12-1-1.110

108.12-1-1.120

108.12-1-2

108.12-1-3.100

108.12-1-3.200

108.12-1-4

108.12-1-6

108.12-1-7

108.12-1-8

108.12-1-9

108.12-1-10

108.12-1-11

108.12-1-12

108.12-1-13

108.12-2-47

108.12-2-48

108.12-2-50

108.12-2-51.100

108.12-2-51.200

108.12-2-52.200

108.12-2-53

108.12-2-56

108.12-2-57

108.12-2-58

108.12-2-59

108.12-2-60

108.12-2-61

108.12-1-1.200

Section 15. This local law will take effect upon the filing with the Secretary of State as prescribed by law.

RESOLVED that the Town Clerk shall file a certified original of this local law in the office of the Town Clerk and one (1) certified copy in the Office of the Secretary of State, State of New York that it contains the correct text and that all proper proceedings have been had or taken for the enactment of this local law.

The foregoing resolution was duly put to a vote which resulted as follows:

Supervisor Osborn	Yes
Councilman Molinelli	Absent
Councilman Corcoran	Yes
Councilman Baker	Yes
Councilman Koenig	Yes

DATED: Milton, New York  
August 25, 2014

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COLLEEN CORCORAN, TOWN CLERK

***Councilman Koenig made a motion to adjourn the meeting at 8:47PM. Motion seconded by Councilman Corcoran.***

***Yeas: 4***

***Nays: 0***

***Carried***

*Respectfully submitted,  
Danielle Cherubini  
Deputy Town Clerk*