

Supervisor Drozd opened Work Session:

1. Drescher & Malecki will not be here tonight to review the Town's audit. A meeting will be arranged on July 17th at 10 a.m. to review with the Board.

2. Town Attorney Attea updated the Board with regard to the Townsend Road situation. There have been different thoughts that had been shared so he reached out to Gina Wilkolaski, Erie County Traffic Safety Engineer. He will share what he learned so that the Board can take that into account when they hear the public comments later tonight in when rendering a decision on how to proceed. Basically, even though it is a County Road, Ms. Wilkolaski made it clear that the County will not put up, unless there are structures on that route such as a bridge, weight limit signs. Normally, as the Town has learned, the County would want the Town to establish a commercial truck route. This is about a six-month process to work with the County and the NYS DOT and the Town would have to hire an engineer to establish what the commercial truck route would be through town. He is not sure that that is an option that anyone really favors for the Town of Concord. Short of that, the Town has two options: One, do nothing. The general notion would be that commercial traffic would disburse naturally amongst whatever roads are available. It may not be completely fair based on where Townsend Road is located with the 219 exit. What Ms. Wilkolaski said in this instance is that if the Town Board decided that they do want to put up weight limit signs, the Town would have to pass a resolution and then apply to the County for a sign permit. She said that in most instances the County would not approve a permit for weight limit sign on a particular road because usually it ends up turning into a domino effect with residents living on another road coming in wanting the same weight limit sign and that would go on and on and never ends which is why the County favors a truck route. However, Ms. Wilkolaski said that in this instance, because there has been a history and there was a sign up and that sign was taken down, and because of some of the other features of that road, she said that she would be inclined to make an exception approve the request if the Town passed a resolution and made the permit application. Ms. Wilkolaski did indicate, and the Board may be aware, that there have been other roads in the Town of Concord where signs were put up and they are no longer there. Ms. Wilkolaski said that historically this is not uncommon particularly in more rural towns because anyone can go out and order a sign. The signs that would be preapproved by Erie County would be more specific and normally have a sticker on the back. Erie County has, over time, taken down all the signs that were not previously authorized by the County. The other option would be that if the Board were to pass a resolution authorizing weight limit signs on that road; he's not sure that there is any guarantee on this, but Ms. Wilkolaski seemed to make it clear that the County would be prepared to make an exception and allow those signs to go back up. That the County would grant the application and make the exception; a one-time deal. Town Atty Attea said that he would try to answer any questions on the legal side but wanted to share the update with the Board because he thought Council Member Zittel and Supervisor Drozd had spoken with Ms. Wilkolaski at one point and there seemed to be a little confusion as to where the County stood on this and what the town could and could not do.

Council Member Zittel asked if Ms. Wilkolaski noted why the County took down the signs. Town Atty Attea: The County generally favors the commercial truck route and because it was a little haphazard and a lot of the signs just historically over time, towns and villages were making independent decisions with different town boards and there was a hodgepodge of all these signs, many of which were not previously approved by the County. The County looked at it that these are County roads and they will leave up the signs that were approved but cleared out the other ones. Supervisor Drozd mentioned that there are some still up. Supervisor Drozd advised that this whole matter started with an email from Ms. Wilkolaski and said that there was a problem with those signs. Town Atty Attea noted that Ms. Wilkolaski has become very familiar with a couple of residents on the road. Supervisor Drozd asked that since the signs were put in and the Town did not take the next step for whatever reason to make it a local law, what

happens if something happens up there? Town Atty Attea said that he discussed that with Ms. Wilkolaski. First of all, it is a County road so the Town is not necessarily responsible for the maintenance. If there was a catastrophic injury on that road and it had something to do with weight limits or commercial vehicles, and there were signs up at one time regulating that, and the signs were not up any more, the question was raised if that would create a liability for the Town because the Town no longer has the signs up. His answer was that a creative Plaintiff's attorney would certainly try to make it an additional arrow in their quiver but that in and of itself is not going to create a liability and if there was such an accident or claim for damages, it very likely would involve all kinds of conditions, negligence or acts, that would so dramatically outweigh that one particular condition. It would be something that would be discovered would be raised but it would not create massive additional exposure. Town Atty Attea advised the Board that the Town Board had the Public Hearing on the local law for the weight limit signs and there is a second resolution for the reduction of the speed limit on Townsend Road. Supervisor Drozd said that the proposed resolution would be for a traffic study to be completed by the County to reduce the speed limit from 45 mph to 35 mph. Council Member Drake asked why the Town Board would want to do this if Erie County is going to change the intersections on both ends of Townsend Road and they are fine with the 45 mph. Supervisor Drozd said that the Town doesn't know if Erie County is fine with 45 mph. Council Member Drake replied that the 2000 request to reduce the speed limit to 35 mph was denied by Erie County. Supervisor Drozd noted that the Board has received a petition from the residents now so it's up to the Board to ask to get that speed limit lowered. Council Member Zittel said he thinks the Town has to wait to see what the County does with the intersections; Town Atty Attea asked if the County had agreed to do that work; Supervisor Drozd advised that the County is going to do Spaulding and have done other roads in the Town and once the County starts a program like that Supervisor Drozd believes they will continue and do them all on the road; this could take a couple years. Council Member Drake recommended that the Town wait to see what the County does; that the intersection at Townsend and Springville-Boston Road does need to be changed; it is a hazard waiting to happen. Town Atty Attea asked if the Board would be a potential vote for the weight limit local law this evening and wait on the resolution for the reduction of speed? Supervisor Drozd noted that neither are on tonight's agenda and would have to be brought up from the floor. Supervisor Drozd noted that he would agree with that to wait to see if the County gets something next year because Spaulding Road is being done this year. Supervisor Drozd asked the Board if there was support tonight to bring the weight limit local law up for a vote tonight. There was not. Council Member Zittel said that he has a number of reasons. Supervisor Drozd stated that what he will have to do is set up a committee; he has several items on his desk that need his attention as well. Supervisor Drozd is for this local law; he knows what is up there; spent a lot of time up there. Town Atty Attea noted that there are residents who will be speaking so to that extent the Board may want to bring it up for a vote. Council Member Drake said that the full Board should be in attendance for a vote. Council Member Krzemien asked that it not be brought up for a vote in her absence from tonight's meeting. It was agreed to table the vote.

3. Supervisor Drozd asked Caleb Henning, MDA Consulting Engineers, to review the engineering review with the Board regarding the RIC Energy Solar application. Mr. Henning provided copies of his July 11, 2024 Review to the Board. Mr. Henning advised that MDA conducted an Engineering Review of the application package that includes their own zoning review that the applicant provided and their engineering drawings, the storm water controls, the visual impact assessment study. A comprehensive review of the whole package was conducted. On July 2nd, MDA sent out a preliminary set of comments to the applicant and their engineer, which are included in this July 11th Review. Since that time, Mr. Henning met with Supervisor Drozd at their office to step through the plans and some of the Town's concerns about the project. After that meeting, MDA went through a second round and came up with some additional comments. Attached to this July 11th Review are two responses that were received as a result of the coordinated review: A comment letter from the DEC and a comment letter from Erie County Department of Environment and Planning. The DEC letter was pretty typical identifying some of the permits that may be necessary and a couple project specific comments about paying attention to the Agricultural district and potential impacts of that and made a specific comment about the fence and how it should maintain

a one-foot gap at the bottom to allow for little, smaller wildlife to go through the site. Erie County Department of Environment and Planning sent out a three-page letter and basically, they referenced five different documents: the Town's Comprehensive Plan from 2021, the County's Agricultural and Farmland Protection Plan, the Erie County Community Climate Action Plan, the Buffalo and Erie County Local Food Action Plan and the Erie-Niagara Framework for Regional Growth. The County is making the argument that this type of a project conflicts with the Town's Comprehensive Plan and its goal of protecting farmland. This information gives the Town something to chew on as the Town goes through the Environment Review. The bulk of the additional MDA comments have to do with the soils and preserving the soils on the farmland and making sure that the project is conducted in a way that preserves that. Mr. Henning also referenced the NYS Ag & Markets Guidelines for Solar Energy Projects and some specific things that he thinks are important that this project incorporates. Mr. Henning also expanded a bit on the Electric Power Research Institute (EPRI) study sponsored to study decommissioning costs, for photovoltaic systems, for solar panel projects. EPRI arrives at a much higher cost of decommissioning than what is currently being proposed by the developer. This is provided as a basis as to why the Town should consider requesting a higher decommissioning bond. Mr. Henning believes that ultimately the applicant can address all of these comments pretty well and it will come down to finishing the Environmental Review and the Town Board is going to have to make a decision as to whether this is a negative declaration or not. Mr. Henning stated that with that in mind, MDA will help the Town with Part 2 of the EAF, which the Town has contracted them to do. MDA will go through it and fill out a draft version of it which will include a write up or justification for each question if it is warranted. When the Town is ready to continue the Environmental Review, Mr. Henning thinks that the Board should set aside time to step through each of the questions and he can provide support. Ultimately, the Board has to decide at the end of the Environmental Review whether the potential impacts are small or mitigated or whether they are large and not able to be mitigated which would inform whether the Board passed a negative or positive declaration. Mr. Henning had previously noted that the application package is pretty comprehensive and complete and, for the most part, the project does meet the zoning requirements but, as the Board considers a Special Use Permit, there are some specific things that Mr. Henning thinks should be included as conditions to any Special Use Permit if the Town Board ends up moving forward and issuing the permit. Mr. Henning noted that a SEQR is required for zoning actions so if the Town is adopting a Comprehensive Plan or changing your Zoning laws, the Town has to do an Environmental Review for that. What the Town is being asked to do is consider, if the Town is making a zoning change, how does that affect the environment across the Town? Does it have the potential to damage or reduce Ag lands? But with an Environmental Review on this project, Mr. Henning thinks that the way the Town is supposed to be doing it is looking at this one parcel because that is what the Environmental Review is on. The Town shouldn't really speculate what happens if five more of these projects go in; put the blinders on and focus on this one project. That's his opinion. Mr. Henning noted that this letter is addressed to the Town but he thinks it would be proper to forward the letter to the applicant so that they have a chance to respond. Town Clerk Schweikert advised that James Taravella from RIC Energy is here and provided him with a copy of the MDA July 11th letter. Mr. Henning said that he is interested in hearing what the applicant has to say; if he is here to say anything about this project. Supervisor Drozd asked Mr. Taravella if he had anything to say; Mr. Taravella said that he wasn't told that this matter was on the Agenda for this evening. Supervisor Drozd noted that the Town Board was in a Work Session right now but that he had spent a few hours with MDA Consulting Engineers the other day before Mr. Henning put it in letter form. Mr. Taravella said that unfortunately he did not hear about 90% of what Mr. Henning had said this evening. Town Atty Attea advised that there is no need for a verbal response tonight and the Town is still waiting on their response to the original 17 questions. Mr. Taravella said that they were informed that there would be more questions coming and were waiting for those questions so nothing has been prepared yet. Mr. Henning noted that the additional questions focus on the soil, preserving the Agricultural soil and what their plan is for that and then just to verifying and confirming that the project is going to be done in accordance with the Ag & Markets Guidelines for Solar Energy Projects; that is the bulk of the comments that are in addition to what was sent on July 2nd. Mr. Taravella said that that is their intent and they would be happy to sit down and talk to the

Board and Mr. Henning about all the comments. Supervisor Drozd informed Mr. Taravella that is no vote going on this evening on the project; another Public Hearing is going to be scheduled. Town Atty Attea noted that it will be a continuation of the first one; Supervisor Drozd added that everyone did not have a chance to speak at the last one. It will be a night dedicated just to this project. Mr. Henning noted that some of the potential impacts of the project, without getting this additional information, it is hard to determine what the impact will be and he thinks one of the biggest things has to do with the cut-fill; the applicant is proposing to do some re-grading in some of the areas on the project and more information is needed on that.

4. Town Atty Attea asked Mr. Henning about the easement grinder pump station at Ridgeview. Is MDA waiting for him to draft the proposed easement using the materials that MDA sent him as an exhibit to define the area or is MDA planning on sending him a standard template that MDA would recommend. Mr. Henning said that they have the exhibit that graphically shows the area of the easement and he believes Jonathan Rogers, MDA, may have sent an example easement. Town Atty Attea will work off that; tweak it. Mr. Henning noted that MDA provided that information to make Town Atty Attea's job easier. Town Atty Attea responded thank you, there's not many people like that. Town Atty Attea will work on this; he has the contact for the head of the HOA and will reach out to him so he understands the how and the why and if the HOA has any other questions, they can be addressed moving forward. This is ultimately for the HOA benefit that these are going to go in. Mr. Henning noted that they are district owned and maintained grinder pumps; he struggled the most with how to do the electrical and he thinks the Town has to do a new service for these two pumps. It is either that or put four pumps in and connect in each home's service. Mr. Henning thinks that what is being presented is the best path forward. Town Atty Attea thanked the Board.

5. Mr. Henning asked if the Board was going to do anything tonight for scheduling the Public Hearing on the Bond modification for the WWTP project; Supervisor Drozd noted that it will be on the Agenda tonight. Hodgson Russ had provided all the necessary documentation.

6. Supervisor Drozd informed the Board that the phone and internet system at Town Hall is on borrowed time. Supervisor Drozd and Council Member Drake met with Nick, a representative who has done a bunch of municipalities that have the County T-1 line. The Town has a line here from Erie County called a T-1 line which were put in about 15-18 years ago. The County has since abandoned that program; the boxes are now surplus; not repairing them or fixing them anymore. Supervisor Drozd said he received information from Spectrum. It would be \$99.99 one-time fee and Nick works with them and then about \$49 extra. Then the Town can work with Spectrum to consolidate the Town's billing because the Town currently gets 8 or 9 bills a month. The Town will be proceeding with this. The Town will need to change the phone system; maybe budget it for next year. Council Member Zittel asked if the Town would have to sign a contract. Supervisor Drozd advised that the only contract at this time would be for Nick and Spectrum to come in to get that high-speed line in here.