

AGENDA FOR TOWN BOARD MEETING, APRIL 25TH, 2023
(Subject to change)

Supervisor to call meeting at 6:00 p.m.

Salute to Flag

Correspondence

R – Appointments

- Jeanne Richardson

R – Set Waterways hearings

- Dorothy Morehead, 33 St. Mary's Road

- Richard Hogan, 1 Shorewood Court

- George DeMan, 4 Summerfield Place

- Rob Watt, 56 Ram Island Road

- Cape Pridwin Owner, LLC, 81 Shore Road

- Kristian Cark, 56 N. Cartwright

- David Cohen, 62 Westmoreland Drive

- Carine Maurer, 7 Dickerson Drive

- Scudder Cottages, 34 Prospect Avenue

R – Set Local Law Hearing

- Ethics Code

- Rental of Real Property – to be re-noticed for 5/16

R – Accept bids for Commissioner of Public Works

R – Authorize Supervisor to sign contract

R – Credits

R - Pay Bills

R – Wetlands LL

6:10 p.m. Public hearing on Serena Dugan, 37 Tuthill Drive, mooring application

Town Clerk reads public notice

Waterways Management Advisory Committee report

Open hearing for all interested persons in favor of or opposition

Close hearing

6:12 p.m. Public hearing on proposed Local Law entitled “ A Local Law adding a new Chapter 106, entitled “Right-of-Way”

Town Clerk reads public notice

Open hearing for all interested persons in favor of or opposition

Close hearing

6:14 p.m. Public hearing on proposed Local Law entitled “A Local Law amending Chapter 105 entitled “Rental of Real Property” **MUST BE RENOTICED**

6:16 p.m. Public hearing on proposed Local Law entitled “A Local Law to impose a twelve-month moratorium on the processing and approval of special permits by the Town Board in connection with applications for one-family dwellings and accessory structures with a square foot living area greater than 5,999 square feet”

Town Clerk reads public notice

Open hearing for all interested persons in favor of or opposition

Close hearing

WHEREAS, a vacancy exists on the Emergency Medical Services Advisory Group, and
WHEREAS, the Town Board has advertised for and interviewed applicants, now,
Therefore

BE IT RESOLVED, that Jeanne Richardson is hereby appointed to serve as a member
of the Emergency Medical Services Advisory Group for a term to expire on December 31,
2023.

BE IT RESOLVED, that Clarissa Fischer is hereby appointed to serve as a Nutrition
Program part time office assistant to be paid \$30.07 per hour, not to exceed 15 hours per week.

WHEREAS, Dorothy Moorhead, 33 St. Mary's Road, has petitioned the Town of Shelter
Island for permission to install a mooring in Coecles Harbor at a location designated as latitude
41.086831° north and longitude 72.311946° west, now, Therefore

BE IT RESOLVED, That pursuant to Section 90-5 of the Code of the Town of Shelter
Island, a public hearing will be held at 6:10 p.m., prevailing time, on the 16th day of May, 2023,
in the Shelter Island Town Hall, Shelter Island, New York, for all interested persons to be
heard in favor of or in opposition to the proposed installation.

WHEREAS, Richard Hogan, 1 Shorewood Court, has petitioned the Town of Shelter
Island for permission to install a mooring at a location designated as latitude 41.043322° north
and longitude 72.325903° west, now, Therefore

BE IT RESOLVED, That pursuant to Section 90-5 of the Code of the Town of Shelter
Island, a public hearing will be held at 6:12 p.m., prevailing time, on the 16th day of May, 2023,
in the Shelter Island Town Hall, Shelter Island, New York, for all interested persons to be
heard in favor of or in opposition to the proposed installation.

WHEREAS, George DeMan, 4 Summerfield place has petitioned the Town of
Shelter Island for permission to install a stake, mooring and pulley system at a location
designated as latitude 41.087696° north and longitude 72.35676° west, now, Therefore

BE IT RESOLVED, That pursuant to Section 90-5 of the Code of the Town of Shelter
Island, a public hearing will be held at 6:14 p.m., prevailing time, on the 16th day of May, 2023,
in the Shelter Island Town Hall, Shelter Island, New York, for all interested persons to be
heard in favor of or in opposition to the proposed installation.

WHEREAS, Robert Watt, 56 Ram Island Drive, has petitioned the Town of Shelter
Island for permission to install a mooring at a location designated as latitude 41.072879° north
and longitude 72.282324° west, now, Therefore

BE IT RESOLVED, That pursuant to Section 90-5 of the Code of the Town of Shelter
Island, a public hearing will be held at 6:16 p.m., prevailing time, on the 16th day of May, 2023,
in the Shelter Island Town Hall, Shelter Island, New York, for all interested persons to be
heard in favor of or in opposition to the proposed installation.

WHEREAS, Cape Pridwin Owner, LLC, 81 Shore Road, has petitioned the Town of Shelter Island for permission to install a mooring at a location designated as latitude 41.070988° north and longitude -72.375806° west, now, Therefore

BE IT RESOLVED, That pursuant to Section 90-5 of the Code of the Town of Shelter Island, a public hearing will be held at 6:18 p.m., prevailing time, on the 16th day of May, 2023, in the Shelter Island Town Hall, Shelter Island, New York, for all interested persons to be heard in favor of or in opposition to the proposed installation.

WHEREAS, Cape Pridwin Owner, LLC, 81 Shore Road, has petitioned the Town of Shelter Island for permission to install a mooring at a location designated as latitude 41.071054° north and longitude -72.375439° west, now, Therefore

BE IT RESOLVED, That pursuant to Section 90-5 of the Code of the Town of Shelter Island, a public hearing will be held at 6:20 p.m., prevailing time, on the 16th day of May, 2023, in the Shelter Island Town Hall, Shelter Island, New York, for all interested persons to be heard in favor of or in opposition to the proposed installation.

WHEREAS, Cape Pridwin Owner, LLC, 81 Shore Road, has petitioned the Town of Shelter Island for permission to install a mooring at a location designated as latitude 41.071149° north and longitude -72.375083° west, now, Therefore

BE IT RESOLVED, That pursuant to Section 90-5 of the Code of the Town of Shelter Island, a public hearing will be held at 6:22 p.m., prevailing time, on the 16th day of May, 2023, in the Shelter Island Town Hall, Shelter Island, New York, for all interested persons to be heard in favor of or in opposition to the proposed installation.

WHEREAS, Cape Pridwin Owner, LLC, 81 Shore Road, has petitioned the Town of Shelter Island for permission to install a mooring at a location designated as latitude 41.071233° north and longitude -72.374743° west, now, Therefore

BE IT RESOLVED, That pursuant to Section 90-5 of the Code of the Town of Shelter Island, a public hearing will be held at 6:24 p.m., prevailing time, on the 16th day of May, 2023, in the Shelter Island Town Hall, Shelter Island, New York, for all interested persons to be heard in favor of or in opposition to the proposed installation.

WHEREAS, Cape Pridwin Owner, LLC, 81 Shore Road, has petitioned the Town of Shelter Island for permission to install a mooring at a location designated as latitude 41.071319° north and longitude -72.374388° west, now, Therefore

BE IT RESOLVED, That pursuant to Section 90-5 of the Code of the Town of Shelter Island, a public hearing will be held at 6:26 p.m., prevailing time, on the 16th day of May, 2023, in the Shelter Island Town Hall, Shelter Island, New York, for all interested persons to be heard in favor of or in opposition to the proposed installation.

WHEREAS, Cape Pridwin Owner, LLC, 81 Shore Road, has petitioned the Town of Shelter Island for permission to install a mooring at a location designated as latitude 41.071242° north and longitude -72.375699° west, now, Therefore

BE IT RESOLVED, That pursuant to Section 90-5 of the Code of the Town of Shelter

Island, a public hearing will be held at 6:28 p.m., prevailing time, on the 16th day of May, 2023, in the Shelter Island Town Hall, Shelter Island, New York, for all interested persons to be heard in favor of or in opposition to the proposed installation.

WHEREAS, Cape Pridwin Owner, LLC, 81 Shore Road, has petitioned the Town of Shelter Island for permission to install a mooring at a location designated as latitude 41.071337° north and longitude -72.375352° west, now, Therefore

BE IT RESOLVED, That pursuant to Section 90-5 of the Code of the Town of Shelter Island, a public hearing will be held at 6:30 p.m., prevailing time, on the 16th day of May, 2023, in the Shelter Island Town Hall, Shelter Island, New York, for all interested persons to be heard in favor of or in opposition to the proposed installation.

WHEREAS, Cape Pridwin Owner, LLC, 81 Shore Road, has petitioned the Town of Shelter Island for permission to install a mooring at a location designated as latitude 41.071429° north and longitude -72.374996° west, now, Therefore

BE IT RESOLVED, That pursuant to Section 90-5 of the Code of the Town of Shelter Island, a public hearing will be held at 6:32 p.m., prevailing time, on the 16th day of May, 2023, in the Shelter Island Town Hall, Shelter Island, New York, for all interested persons to be heard in favor of or in opposition to the proposed installation.

WHEREAS, Kristian Clark, 56 N. Cartwright Road, has petitioned the Town of Shelter Island for permission to construct stairs leading up to a new 4' x 101' fixed dock with a 4' x 30' fixed "L", -16" lower than dock, now, therefore,

BE IT RESOLVED, That pursuant to Section 53-9 of the Code of the Town of Shelter Island, the Town Board hereby calls for a public hearing to be held at 6:34 p.m., prevailing time, on the 16th day of May, 2023, for all interested persons to be heard in favor of or in opposition to the proposed construction.

WHEREAS, David Cohen, 62 Westmoreland Drive, has petitioned the Town of Shelter Island for permission to construct a 4' x 10' ramp leading up to a 4' x 89' catwalk to stairs leading down to bottom.

BE IT RESOLVED, That pursuant to Section 53-9 of the Code of the Town of Shelter Island, the Town Board hereby calls for a public hearing to be held at 6:36 p.m., prevailing time, on the 16th day of May, 2023, for all interested persons to be heard in favor of or in opposition to the proposed construction.

WHEREAS, Carine Maurer, 7 Dickerson Drive, has petitioned the Town of Shelter Island for permission to construct a 4' x 60' ramp down to a 4' x 70' catwalk. Install 3 ladders at seaward end.

BE IT RESOLVED, That pursuant to Section 53-9 of the Code of the Town of Shelter Island, the Town Board hereby calls for a public hearing to be held at 6:38 p.m., prevailing time, on the 16th day of May, 2023, for all interested persons to be heard in favor of or in opposition to the proposed construction.

WHEREAS, Scudder Cottages, C/O Rodney Scudder, 34 Prospect Avenue, has petitioned the Town of Shelter Island for permission to remove 43' of existing bulkhead & 12' existing return. Construct 43' of new bulkhead & 12' return, in-kind in-place. Remove 36' of existing jetty & construct 42' of jetty, in-place. Remove 46' of existing jetty & construct 52' of jetty, in-place.

Dredge 42' x 140' area from inlet to basin to -4.0' below MLW, removing approximately 1,000 cubic yards of soil. Dredge soil to be used as backfill landward of bulkhead. Remainder of soil to be used as fill in eroded areas as noted on site plan. Install 3' x 12' seasonal aluminum ramp onto 6' x 20' seasonal floating dock secured by (4) 10" diameter anchor piling. Remove existing 4' x 85' fixed dock. Construct a 5' x 100' from MHW fixed dock with 4' wide cross – over stairway to beach at inshore end. Install (4) 2-pile mooring dolphins at offshore end. Install two ladders.

Provide for water & electric service to offshore end, now, therefore

BE IT RESOLVED, That pursuant to Section 53-9 of the Code of the Town of Shelter Island, the Town Board hereby calls for a public hearing to be held at 6:40 p.m., prevailing time, on the 16th day of May, 2023, for all interested persons to be heard in favor of or in opposition to the proposed construction.

BE IT RESOLVED, that the Town Board of the Town of Shelter Island hereby directs that a public hearing shall be held on Tuesday, May 16, 2023, at 6:42 p.m. to hear any and all persons either for or against a local law entitled “A LOCAL LAW to repeal Town Code Chapter 8 entitled “Ethics, Code of” in its entirety and replace same with a new Town Code Chapter 8 to be entitled “Ethics Code” of which provides as follows:

LOCAL LAW NO. _____ of 2022

A LOCAL LAW to repeal Town Code Chapter 8 entitled “Ethics, Code of” in its entirety and replace same with a new Town Code Chapter 8 to be entitled “Ethics Code”.

BE IT ENACTED by the Town Board of the Town of Shelter Island as follows:

Section 1. Legislative Intent.

The Town Board finds that:

1. Individuals working on behalf of the Town of Shelter Island (“the Town”) are public servants who are expected to perform their duties in the best interests of the Town. They may, however, encounter a situation in which what is best for the Town may be different from their own personal best interest. In such a case, there is a “conflict of interest.”

2. New York State’s General Municipal Law, Article 18 contains provisions prohibiting certain conflicts of interest of municipal officers and employees. The rules of that law apply to all Town employees, which include officers or employees, paid or unpaid. In brief:

§ 801 prohibits conflicts of interest in the context of contracts between the Town and one of its employees. Contracts that violate the statute may be void (§ 804), and the offending employee may be charged with a misdemeanor. Exceptions exist (§ 802) and the term “employee” is broadly defined to include family members and certain related private organizations.

§ 803 requires potential conflicts of interest to be disclosed.

§ 805-a also prohibits Town employees from:

- Soliciting gifts in connection with their Town employment.
- Disclosing confidential information acquired in connection with their Town employment.
- Entering into certain compensation agreements that may create a conflict of interest.

Town employees should familiarize themselves with Article 18. The law itself is posted in Town Hall, and the law and the Comptroller's description of it can be found on the Town’s website under the Board of Ethics.

3. Article 18 is not a comprehensive statute. Section 806 leaves to each municipality the task of adopting a code of ethics “setting forth for the guidance of its officers and employees the standards of conduct reasonably expected of them.” These codes cannot limit the reach of Article 18, but they may increase it. Section 806 requires that the Town’s Code specifically address certain issues, including disclosure of interests that an employee may have in legislation, holding certain investments or undertaking certain employment. It also authorizes the Town to address other potential ethical issues beyond those included in Article 18. It also authorizes the Town to establish a board of ethics, consisting of members who receive no compensation and administer the ethics code.

4. The Town of Shelter Island currently has a Code of Ethics that was adopted in 1970, which is implemented through the Town’s Board of Ethics. The current Code, however, does not fully comply with Article 18 and is in need of an update. The Shelter Island Town Board has asked the Board of Ethics to revise and clarify the Code, in the interest of protecting the Town from unethical activity and providing its employees with clear guidance in performing their duties.

Section 2. Amendment.

Shelter Island Code Chapter 8 (Ethics, Board of), is hereby repealed by deleting the stricken words and a new Chapter 8 (Ethics Board) is added by adding the underlined words as follows:

~~Ethics, Code of
Article I
General Provisions~~

~~§ 8-1 Definitions.~~

~~As used in this chapter, the following terms shall have the meanings indicated:~~

TOWN

~~Any board, commission, district, council or other agency, department or unit of the government of the Town of Shelter Island.~~

TOWN EMPLOYEE

~~Any officer or employee of the Town of Shelter Island, whether paid or unpaid, whether serving a full time, part time or advisory capacity.~~

§ 8-2 Conflicts of interest.

~~No Town employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his duties in the public interest.~~

§ 8-3 Standards of behavior.

A.

~~No Town employee shall accept other employment which will impair his independence of judgment in the exercise of his official duties.~~

B.

~~No Town employee shall accept employment or engage in any business or professional activity which will require him to disclose confidential information which he has gained by reason of his official position or authority.~~

C.

~~No Town employee shall use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others.~~

D.

~~No Town employee shall engage in any transaction as representative or agent of the Town with any business entity in which he has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties.~~

E.

~~A Town employee shall not, by his conduct, give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties or that he is affected by the kinship, rank, position or influence of any part or person.~~

F.

~~Each Town employee shall abstain from making personal investments in enterprises which he has reason to believe may be directly involved in decisions to be made by him or which will otherwise create substantial conflict between his duty in the public interest and his private interest.~~

G.

~~Each Town employee shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.~~

H.

~~No Town employee employed on a full time basis nor any firm or association of which such employee is a member nor a corporation, a substantial portion of the stock of which is owned or~~

~~controlled directly or indirectly by such employee, shall sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the Town in which such employee serves or is employed.~~

§ 8-4. Additional penalties.

~~In addition to any penalty contained in any other provision of law, any such Town employee who shall knowingly and intentionally violate any of the provisions of this chapter may be fined, suspended or removed from office or employment in the manner provided by law.~~

ARTICLE II
Board of Ethics

§ 8-5 Establishment; membership.

~~There is hereby established a Board of Ethics consisting of five members to be appointed by the Town Board, all of whom reside in the Town of Shelter Island and who shall serve without compensation and at the pleasure of the Town Board of the Town of Shelter Island. A majority of such members shall be persons other than Town employees, but the Board shall include at least one member who is an elected or appointed Town employee of the Town of Shelter Island.~~

§ 8-6 Powers.

~~The Board of Ethics established hereunder shall render advisory opinions to Town employees on written request and, upon request of the Town Board, make recommendations to such Town Board as to any amendments of this chapter. The opinions of the Board of Ethics shall be advisory and confidential, and in no event shall the identity of the Town employee be disclosed except to authorized persons and agencies. Such opinions shall be on the advice of counsel employed by the Board of Ethics or, if none, of the Town Attorney.~~

§ 8-7. Promulgation of rules and regulations; records.

~~Such Board of Ethics, upon its formation, shall promulgate its own rules and regulations as to its form and procedures and shall maintain appropriate records of its opinions and proceedings.~~

~~ARTICLE III~~
~~Administration~~

~~§ 8-8. Distribution and posting of copy.~~

~~Upon the adoption of this chapter, the Town Supervisor shall cause a copy thereof to be distributed to every Town employee of this Town. Failure to distribute any such copy or failure of any Town employee to receive such copy shall have no effect on the duty of compliance with this code nor the enforcement of provisions hereof. The Town Supervisor shall further cause a copy of this chapter to be kept posted conspicuously in each public building under the jurisdiction of the Town. Failure to so post this chapter shall have no effect on the duty of compliance herewith nor on the enforcement provisions hereof.~~

~~§ 8-9. Filing of copy.~~

~~Within 30 days of the adoption of this chapter, the Town Clerk shall file a copy thereof in the office of the State Comptroller.~~

~~§ 8-10. Appropriation of moneys.~~

~~The Town Board may appropriate moneys from the general Town funds for the maintenance of and for personnel services to the Board of Ethics established hereunder, but such Board of Ethics may not commit the expenditure of Town moneys except within the appropriations provided herein.~~

Chapter 8

Code of Ethics

ARTICLE 1 Standards of Conduct

§ 8-1. Purpose.

Officers and employees of the Town of Shelter Island hold their positions to serve and benefit the public, and not for obtaining unwarranted personal or private gain in the exercise and performance of their official powers and duties. The Town recognizes that, in furtherance of this fundamental principle, there is a need for clear and reasonable standards of ethical conduct. Clear standards will also protect ethical public officials and rebut unfair allegations. This Code of ethics establishes those standards.

§ 8-2. Definitions.

ARTICLE 18- New York State's General Municipal Law, Article 18.

BOARD- The Town Board and any other administrative board, committee, or other agency or body comprised of two or more Town officers or employees.

CODE- This Code of Ethics.

FINANCIAL BENEFIT- Anything of value, whether in the form of money, property, services, loan, travel, entertainment, hospitality, or promise, or any other form. The benefit can be direct or indirect but does not include any benefit arising from the provision or receipt of any services generally available to the residents or taxpayers of the Town or an area of the Town, or a lawful class of such residents or taxpayers.

HOUSEHOLD- Those persons residing within the same dwelling unit.

INTEREST IN A CONTRACT- A Town officer or employee has an interest in a contract when they, their spouse, minor child, dependent, or corporation in which the Town employee is an owner, officer or employee, would secure a financial benefit under the contract.

INTEREST IN A PRIVATE ORGANIZATION- A Town officer or employee is deemed to have an interest in any private organization when they, their spouse, or a relative, is an owner, partner, member, director, officer, employee, or directly or, in the case of a corporation, indirectly owns or controls more than 5% of the corporation's outstanding stock.

OFFICER or EMPLOYEE- Any Town employee whether paid or unpaid, whether serving full-time, part-time or in an advisory capacity.

RELATIVE- A spouse, brother, sister, parent, child, grandchild, or the spouse of any of them, or a household member of an officer or employee.

TOWN- The Town of Shelter Island.

§ 8-3. Applicability

This Code applies to the officers and employees of the Town and shall supersede any prior Town code of ethics. The provisions of this Code shall apply in addition to all applicable State and local laws relating to conflicts of interest and ethics including, but not limited to, Article 18 and all rules, regulations, policies and procedures of the Town.

§ 8-4. Prohibition on use of Town position for personal or private gain.

No officer or employee shall use their Town position or official powers and duties to secure a financial benefit for themselves, a relative, or any private organization in which the employee is deemed to have an interest.

§ 8-5. Disclosure of interest in legislation and other matters where discretion is used.

A. Whenever a matter requiring the exercise of discretion, including proposed legislation, comes before an officer or employee, either individually or as a member

of a board or committee, and disposition of the matter could result in a financial benefit to the officer or employee, a relative of theirs, or any private organization in which they are deemed to have an interest, the officer or employee shall disclose in writing the nature of the financial benefit.

B. The disclosure shall be made when the matter requiring disclosure first comes before the officer or employee, or when the officer or employee first acquires knowledge of the benefit requiring disclosure, whichever is earlier.

C. In the case of a person serving in an elective office, the disclosure shall be filed with the Town Board and the Board of Ethics. In all other cases, the disclosure shall be filed with the Board of Ethics and that person's supervisor or, if the person does not have a supervisor, the disclosure shall be filed with the officer, employee or board having the power to appoint the person's position. In addition, in the case of a person serving on a board, a copy of the disclosure shall be filed with said board and included in the minutes of the board's meeting.

§ 8-6. Recusal and abstention.

No officer or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including proposed legislation, when they know or have reason to know that the action could confer a financial benefit on the employee, a relative, or any private organization in which the employee is deemed to have an interest. Further, once recused, that person may not be in the room (or appear via videoconferencing) when the matter is being discussed, voted on, nor participate in any discussions or communications including e-mail or text regarding it.

§ 8-7. Prohibition inapplicable; disclosure, recusal and abstention not required.

This Code's prohibition on use of a Town position (§ 8-4), disclosure requirements (§ 8-5), and requirements relating to recusal and abstention (§ 8-6), shall not apply with respect to the following matters:

A. adoption of the Town's annual budget;

B. any matter requiring the exercise of discretion that directly affects any of the following groups of people or a lawful class of such groups:

- (1) all officers or employees;
- (2) all residents or taxpayers of the Town; or
- (3) the general public; or

C. any matter that does not require the exercise of discretion.

§ 8-8. Investments in conflict with official duties.

A. No officer or employee may acquire the following investments:

- (1) investments that can be reasonably expected to require more than sporadic

recusal and abstention under section 8-6 of the Code; or
(2) investments that would otherwise impair the person's independence of judgment in the exercise or performance of their official powers and duties.

B. This section does not prohibit a Town officer or employee from acquiring any other investments or the following assets:

- (1) less than five percent of the stock of a publicly traded corporation, or
- (2) bonds or notes issued by the Town and acquired more than one year after the date on which they were originally issued.

§ 8-9. Private employment in conflict with official duties.

A. No officer or employee, during their tenure as an officer or employee, may engage in any private employment that may be in substantial conflict with the proper discharge of their duties, when:

- (1) it can be reasonably expected to require more than sporadic recusal and abstention pursuant to § 8-6 of the Code, or
- (2) it can be expected to require disclosure or use of confidential information gained by reason of serving as an officer or employee, or
- (3) it requires representation of a person or organization other than the Town in connection with litigation, negotiations, or any other matter to which the Town is a party.

B. No officer or employee shall receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any board of which the officer or employee is a member, or has the power to appoint any member, nor for compensation for services to be rendered in relation to any matter before any agency of the Town whereby compensation is to be dependent or contingent upon any action by such agency with respect to such matter.

C. No officer or employee shall receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any board, if the compensation is dependent or contingent upon any action by such board or committee with respect to such matter. This paragraph shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.

§ 8-10. Future employment.

A. No officer or employee may ask for, pursue or accept a private post-government employment opportunity with any person or organization that has a matter requiring the exercise of discretion pending before the officer or employee, either individually or as a member of a board, while the matter is pending or within the 30 days following final disposition of the matter.

B. No officer or employee, for the one-year period after serving as an officer or

employee, may represent or render services to a private person or organization in connection with any matter involving the exercise of discretion before the Town office, board, department or comparable organizational unit for which they served.

C. No Town officer or employee, at any time after serving as an officer or employee, may represent or render services to a private person or organization in connection with any particular transaction in which the employee personally and substantially participated while serving as a Town officer or employee.

§ 8-11. Personal representations and claims permitted.

The Code shall not be construed as prohibiting an officer or employee from representing themselves, or their spouse or minor children before the Town; or asserting a claim against the Town on their own behalf, or on behalf of their spouse or minor children.

§ 8-12. Use of Town resources.

Town resources shall be used for lawful Town purposes.

A. No officer or employee may use or permit the use of Town resources for personal or private purposes. Town resources include, but are not limited to, Town personnel, and the Town's money, vehicles, equipment, materials, supplies or other property. Provided, this provision shall not be construed as prohibiting:

- (1) any use of Town resources authorized by law or Town policy;
- (2) the use of Town resources for personal or private purposes when provided to a Town officer or employee as part of their compensation; or
- (3) the occasional and incidental use during the business day of Town telephones and computers for necessary personal matters such as family care and changes in work schedule.

B. No officer or employee shall cause the Town to spend more than is reasonably necessary for transportation, meals or lodging in connection with official travel.

§ 8-13. Interests in Contracts.

A. Article 18 requires no officer or employee may have an interest in a contract with the Town when such officer or employee, individually or as a member of a board, has the power or duty to:

- (1) negotiate, prepare, authorize or approve the contract or authorize or approve payment thereunder;
- (2) audit bills or claims under the contracts, or
- (3) appoint an officer or employee who has any of the powers or duties set forth above.

B. Exceptions to this prohibition are detailed in Article 18, Section 802. These include an exception for contracts entered into prior to the time a Town employee was elected or appointed, and an exception for contracts which in the aggregate do not exceed \$750 in a fiscal year

C. Every officer and employee shall disclose interests in contracts with the Town at the time and in the manner as follows: Any Town officer or employee or their spouse, minor child or dependent, who has, will have, or later acquires an interest in any actual or proposed contract, purchase agreement, lease agreement or other agreement, including oral agreements, with the Town, shall publicly disclose the nature and extent of such interest in writing to their immediate supervisor, or if a member of a Board to said board, and to the Board of Ethics as soon as the employee has knowledge of such actual or prospective interest. Such written disclosure shall be made part of and set forth in the official record of the proceedings of such body. Disclosure and recusal do not cure a prohibited interest.

§ 8-14. Political Solicitations.

A. No officer or employee shall directly or indirectly compel or induce a subordinate Town officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.

B. No officer or employee may act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining, or in any manner changing the official rank, status or compensation of any Town officer or employee, or an applicant for a position as a Town officer or employee, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

§ 8-15. Confidential Information.

No officer or employee who acquires confidential information in the course of exercising or performing their official powers or duties may disclose or use such information unless the disclosure or use is required by law or in the course of exercising or performing their official powers and duties.

§ 8-16. Gifts.

No Town officer or employee shall directly or indirectly, solicit any gift, or accept or receive any gift having a value of seventy-five dollars or more, whether in the form of money, property, service, loan, travel, entertainment, hospitality, or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence them, or could reasonably be expected to influence them, in the performance of their official duties or was intended as a reward for any official action on his their part;

§ 8-17. Disclosure in certain applications.

A. Section 809 of Article 18 imposes strict disclosure requirements on persons applying for variances, exemptions, and other approvals from local planning and zoning regulations. In general, it provides that the applicant must identify any local officer or employee who has an interest in the application. As applied to Shelter Island, every applicant for a variance, land-use amendment, change of zoning, or approval of subdivision map from the Town Board, Zoning Board of Appeals, Planning Board, Town Clerk or Building Department must disclose information pertaining to any interest that a Town officer or employee, their spouse, parents, siblings, children, grandchildren (or the spouses of any of them) may have in the application.

B. Section 809 (5) provides that one who knowingly and intentionally violates this disclosure requirement shall be guilty of a misdemeanor.

ARTICLE 2 Administration

§ 8-18. Board of Ethics.

A. Article 18, § 808 permits the creation of a Town Board of Ethics (also referred to as “Ethics Board”). This Code hereby authorizes the creation of such a board. The Town Board believes that an independent Ethics Board will assure the public interest in applying this Code without bias or favoritism.

B. The Board of Ethics shall consist of five members, all of whom reside in the Town of Shelter Island and who shall serve without compensation, to be appointed by the Town Board for staggered five- year terms. A majority of such members shall be persons other than Town employees, but the Board shall include at least one member who is a Town employee.

C. Conditions of Board of Ethics membership.

(1) No person may be appointed as a member of the Ethics Board who is a current elected Town officer; or an officer of any local, county or state political party, association, club or independent political committee subject to regulations of the state election law; or a campaign manager, consultant or treasurer for a political party committee or individual election campaign committee or has served in such political capacity during the past twenty-four months.

(2) An Ethics Board member shall promptly resign if entering a campaign race as a candidate for public office; or as a campaign manager, consultant, or treasurer for a political party committee or individual election campaign committee; or when recusal has become prevalent for such individual for matters before the Board of Ethics.

(3) An Ethics Board member may be removed for cause by the Town Board upon any of the following grounds:

- a. Failure to meet the qualifications set forth in § 8-19 of this chapter; or
- b. Substantial neglect of duty; or
- c. Gross misconduct in office; or

- d. Inability to discharge the powers or duties of office; or
- e. A violation of this chapter.

D. The Ethics Board shall have the following substantive authority:

- (1) Town officers and employees may request advice from the Ethics Board concerning their personal compliance with this Code of Ethics. In response to such a request, and after due consideration, the Ethics Board shall issue a confidential advisory opinion to the requesting party.
- (2) In the event any person believes in good faith that a Town employee or officer is engaged in activity that violates this Code, they may file a complaint with the Board of Ethics. The Board of Ethics will investigate such a complaint and issue an opinion on the complaint if it believes there is probable cause of a Code violation. In the absence of such, it will dismiss the complaint.
- (3) The Board of Ethics may act on its own motion to initiate an investigation into an employee's alleged violation of this Code.
- (4) Upon the written request of the Town Board, of a Town officer or employee, or of any contracting party, the Ethics Board shall investigate and provide to the Town Board a written report and recommendation concerning any Town contract or agreement that may be void pursuant to Article 18, Section 804. Additionally, the Ethics Board may, in its discretion, undertake such an investigation upon its own initiative, in which case it may present a report and recommendation to the Town Board.

§ 8-19. Investigations.

- A. Upon receipt of a written complaint alleging a violation of this Code or upon determining on its own initiative that a violation of the Code may exist, the Ethics Board shall have the power and duty to conduct with reasonable promptness any investigation necessary to carry out the provisions of this Code. Written complaints must include the name of the individual complainant. Upon request, the name of a complainant may be kept confidential. If the Board determines that a complaint is frivolous on its face or the alleged violation would be *de minimis*, it may dismiss it without further investigation.
- B. In conducting any such investigation, the Ethics Board may administer oaths or affirmations, compel attendance of witnesses, and require the production of any books or records that it may deem relevant and material. The Ethics Board shall make a reasonable effort to obtain voluntary cooperation prior to exercising or enforcing their right to compel testimony. Further, the Ethics Board shall take steps to ensure that every individual's right to due process is protected.
- C. Any person filing a complaint with the Ethics Board, and every person who is alleged in such a complaint to violate this Code, shall be notified in writing of the disposition of the complaint.

D. Nothing in this section shall be construed to permit the Ethics Board to conduct an investigation of itself or of any of its members or staff. If the Ethics Board receives a complaint alleging that the Ethics Board or any of its members or staff has violated any provision of this Code, or any other law, the Ethics Board shall promptly transmit to the Town Board a copy of the complaint.

§ 8-20. Administration and reporting.

The Board of Ethics shall have the following administrative duties:

A. To prescribe and promulgate rules and regulations governing its own internal organization and procedures in a manner consistent with this Code.

B. To review, index, maintain on file, and dispose of complaints alleging violations of this Code and to make notifications and conduct investigations. The Board of Ethics shall have the confidential advice of legal counsel employed by the Town or outside counsel and the services of a confidential clerk employed by the Town to keep minutes and files.

C. To forward its opinions responding to complaints or opinions on its own motion to the Town Board with any recommendations for disciplinary actions and penalties.

D. To make public on the Ethics Board website its opinions in a brief summary form that removes all personal identifying information.

E. To prepare an annual report to the Town Supervisor and Town Board, summarizing the activities of the Ethics Board. The report may also recommend changes to the text or administration of this Code. The Ethics Board shall periodically review this Code and the Board's rules, regulations, and administrative procedures to determine whether they promote integrity, public confidence, and participation in Town government and whether they set forth clear and enforceable common sense standards of conduct.

§ 8-21. Penalties.

A. Disciplinary action.

Any officer or employee who engages in any action that violates any provision of this chapter may be warned, reprimanded, suspended, or removed from office or employment, and may be subject to any other sanction authorized by law or collective bargaining agreement, by the appointing authority or person or body authorized by law to impose such sanctions. A warning, reprimand, suspension, removal, or other authorized sanction may be imposed in addition to any other penalty contained in this chapter or in any other provision of law.

B. Civil fine.

Any person who violates any provision of this chapter may be subject to a civil fine not to exceed \$1,500 for each violation. A civil fine may be imposed in addition to any other penalty contained in any other provision of law or in this chapter, other than a civil forfeiture. A fine may only be imposed by the Town Board, subject to a hearing and any applicable provisions of law and collective bargaining agreements, or appropriate court of law.

C. Damages.

(1) Any person who violates any provision of this chapter shall be liable in damages to the Town for any losses or increased costs incurred by the Town as a result of the violation. Such damages may be imposed in addition to any other penalty contained in any other provision of law or in this chapter, other than a civil forfeiture.

(2) A finding of damages may only be made by the Town Board or an appropriate court of law.

D. Civil forfeiture.

(1) Any person who intentionally or knowingly violates any provision of this chapter may be subject to a civil forfeiture to the Town of a sum equal to three times the value of any financial benefit he or she received as a result of the conduct that constituted the violation. A civil forfeiture may be imposed in addition to any other penalty contained in any other provision of law or in this chapter, other than a civil fine pursuant to § 8-21B or damages pursuant to § 8-21C. Treble damages and/or civil forfeiture may only be imposed by the Town Board or a court of appropriate authority.

(2) The Town Board may initiate an action or special proceeding, as appropriate, in a court of appropriate jurisdiction to obtain civil forfeiture, pursuant to this section.

E. Misdemeanor.

Any Town officer or employer who intentionally violates any provision of § 8-13 shall be guilty of a Class A misdemeanor and, upon conviction thereof, shall forfeit his or her Town office or employment, subject to any applicable provisions of law and collective bargaining agreements.

F. Prosecutions.

The Ethics Board may refer any information that it receives concerning a possible criminal violation to the appropriate prosecutor or other law enforcement agency. Nothing contained in this chapter shall be construed to restrict the authority of any prosecutor to prosecute any violation of this chapter or of any other law.

G. Limit on Ethics Board.

Nothing in this section shall be construed to permit the Ethics Board to take any action with respect to any alleged violation of this chapter, or of any other law, by the Ethics Board or by any member or staff member thereof.

H. Town Board response to the Ethics Board.

The Town Board shall, within 45 days of receipt of a written referral, pursuant to this section, from the Ethics Board, respond in writing and state in sum and substance the Town Board's intention with respect to the referral.

§ 8-22. Posting and distribution.

A. The Town Clerk will ensure that a copy of (i) Article 18, (ii) this Code, and any subsequent amendments thereto, are posted publicly and conspicuously in Town Hall and any additional buildings in which Town employees and officers conduct business.

B. The Town Clerk will ensure that Article 18, this Code, and any subsequent

amendments thereto, are posted on the Town’s website, and all officers and employees of the Town will be notified by email that they should review the same, and shall periodically attest, upon hiring and at least every five years thereafter, that they have received and reviewed the Code of Ethics. The failure of an officer or employee to review the posted material does not affect either the applicability or enforceability the same.

Section 3. Authority.

The proposed local law is enacted pursuant to Municipal Home Rule Law §10 and Article 18 of General Municipal Law.

Section 4. Severability.

If any section or subsection, paragraph, clause, phrase or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole or any part thereof other than the part, provisions so adjudged to be invalid or unconstitutional.

Section 5. Effective Date.

This local law shall take effect upon the filing with the Secretary of State pursuant to Municipal Home Rule Law.

AND BE IT FURTHER RESOLVED, that the Town Clerk is hereby authorized and directed to publish the following Notice of Public Hearing:

SUMMARY OF PROPOSED LAW

The purpose of this local law is to replace the current Ethics Chapter, within the Town Code, with one that is more comprehensive and fully compliant with Article 18 of the New York State General Municipal Law which governs municipal ethics. This law will serve to protect against potential Town Employee and Officer misconduct, provide guidance to same, and protect the innocent Employee and Officer from aspersions.

BE IT RESOLVED, that the Town Board of the Town of Shelter Island hereby directs that a public hearing shall be held on Tuesday May 16, 2023, at 6:45 p.m., prevailing time to hear any and all persons either for or against a local law entitled “A LOCAL LAW amending Chapter 105 entitled “Rental of Real Property”, to eliminate owner occupied premises from being permitted as vacation rentals of which provides as follows:

LOCAL LAW NO. 4 of 2022

A LOCAL LAW amending Chapter 105 entitled “Rental of Real Property” to require safety inspections for all rental properties and eliminate owner occupied premises from being permitted as vacation rentals.

BE IT ENACTED by the Town Board of the Town of Shelter Island as follows:

Section 1. Legislative Intent.

The Town Board has a duty to ensure that all rental dwelling units within the Town of Shelter Island are safe for its inhabitants and as such has determined that safety inspections, performed by either a licensed professional or the Building Department, are to be required prior to any use of same. Further, the Town Board finds that the lack of community housing opportunities impacts the ability of Shelter Island residents to secure necessary services. As such, the Town Board has determined that owner occupied premises, also known as accessory apartments, shall only be used as year-round rentals, as already required in the Zoning Code, and not for transient rentals of 14 days or less.

Section 2. Amendment.

Section 105-10 of the Shelter Island Code Chapter 129 (Rentals), is hereby amended by adding the underlined words as follows:

§ 105-10. Rental Regulations generally.

The following regulations apply to all rentals of real property on Shelter Island regardless of rental term.

- (1) Code compliance: Any property offered for rent on Shelter Island shall have a valid and current certificate of occupancy or certificate of compliance and shall be in compliance with the New York State, Suffolk County and Shelter Island Town Building and Fire Codes.
- (2) Bedrooms limited: The total number of rooms utilized as bedrooms in any property offered for rent on Shelter Island shall not exceed the number indicated on the building plans filed with the Building Department for the structure(s) in which the rental is located.
- (3) Occupancy: The total occupancy of any rental shall not exceed two times the number of conventional legal bedrooms except that children of the age of three years of age shall not count toward the total.
- (4) Good neighbor brochure: The owner shall provide a copy of the then current good neighbor brochure, as published in PDF format on the Town website, to each lessee prior to or at the commencement of the rental term and the same shall be considered part of the rental agreement.
- (5) Safety Inspection: The owner shall provide a written certification, form to be provided by the Building Department, from a licensed architect, licensed engineer or licensed home inspector that states that the rental dwelling unit fully complies with all of the provisions of the Property Maintenance Code of the New York State Uniform Fire Prevention and Building Code and Code of the Town of Shelter Island. The certification shall include, but not be limited to, the number of bedrooms as indicated on the building plans filed with the Building Department for the structure(s) in which the rental is located, the square footage of each bedroom, the location of every smoke and carbon monoxide detector, and a description of every improvement indicated on the survey. In lieu of the provision of a certification, an inspection may be conducted by the Building Department, and in cases where questions or concerns exist regarding information presented within an application the Building Department retains the right to require an inspection.

Section 105-30 of the Shelter Island Code Chapter 129 (Rentals), is hereby amended by deleting

the stricken words and adding the underlined words as follows:

§ 105-30. Vacation rentals.

A. Vacation rentals generally prohibited. It shall be unlawful and a violation of this chapter for any person or entity that owns, rents or manages property on Shelter Island to rent, lease, or advertise for rent any such property or any portion thereof (including any accessory apartment or accessory sleeping quarters) in any residential (A, AA and C) zone for a period of 14 days or less unless specifically permitted under § 105-30B or C below.

B. Permitted vacation rentals. The following shall be permitted notwithstanding § 105-30A above so long as the property is properly registered under § 105-20; proper notification is made under § 105- 21; and at registration the owner selects one of the following:

~~(1) Owner occupied premises. A residential property on Shelter Island may be rented as often as desired and without limit as to frequency or duration of term where one of the following is simultaneously domiciled on the same or immediately adjacent lot (including a legal accessory structure or bedroom) with tenant or tenants during a rental term:~~

- ~~(a) Owner (or an uncompensated member of the owner's immediate family);~~
- ~~(b) Trustee, beneficiary or settlor, if a trust;~~
- ~~(c) President or majority shareholder, if a corporation; or~~
- ~~(d) Member, if an LLC or partnership. Member, if an LLC or partnership.~~

~~(2) Homesteader's hardship license. A residential property on Shelter Island that is the owner's primary residence may be rented one time in each seven-day period between and including Memorial Day weekend and Labor Day weekend and one time in every fourteen-day period at all other times pursuant to the homesteader's hardship license, provided that:~~

~~(a) At the time of registration the owner submits proof of the following:~~

~~[1] That the property to be rented is receiving a basic or enhanced star exemption; and~~

~~[2] The owner has an annual gross income (less net rental income) of less than 500% of the United States Department of Health and Human Services Poverty Guidelines which must be verified each registration period by submission of an appropriate redacted copy of federal income tax returns for the most recent tax year. (Tax returns shall be reviewed to determine eligibility then returned or destroyed. No income tax records will be maintained by the Town.); and~~

~~(b) Each qualifying owner and such person's nuclear family (including owner, domestic partner and minor children) is collectively limited to one homesteader's hardship license.~~

~~(c) The homesteader's hardship license may not be combined with other permitted vacation rentals to increase the number of rentals allowed.~~

~~(d) The term shall commence on the first day of occupancy.~~

~~(3) Limited commercial vacation rental license. Vacation rentals are permitted pursuant to a vacation rental license as follows:~~

(a) License. An owner (to include his or her nuclear family) not exempted by § 105-30B(1) ~~or (2)~~ above and who has not had a previous license suspended or revoked on Shelter Island, upon application, may obtain to license one property on Shelter Island for use as a vacation rental; and

(b) Frequency of rental. A vacation rental license permits the owner to rent the licensed premises one time in any fourteen-day period; and

(c) Commencement of rental period. The fourteen-day period referenced above shall commence on the first day of the term of the initial rental and continue for the 13 following days; and

(d) License term. A vacation rental license shall be valid for two calendar years to run concurrent with property registration at which time it must be renewed.

(e) License fee. The fee for the vacation rental license shall be set by the Town Board.

(f) Multiple licenses prohibited. No owner may be issued a vacation rental license if such person (or any member of his or her nuclear family) owns any interest in another property on Shelter Island for which they have already received or applied for a vacation rental license.

(g) Corporate ownership. Any legal entity other than a natural person (including but not limited to a corporation, LLC, trust or partnership) may not be issued a vacation rental license on Shelter Island, if any owner, partner, member, settlor, trustee, beneficiary, shareholder, officer, or director of that entity already holds or has applied for a vacation rental license for another property.

(h) Corporate disclosure. Any partnership, trust, LLC or corporate applicant for a vacation rental license must provide documentation naming all partners, members, settlors, trustees, beneficiaries, shareholders, officers and directors, and submit a statement verifying that none of those named are partners, members, settlors, trustees, beneficiaries, shareholders, officers and directors, of any other corporation or partnership, or an individual owner that already holds or has applied for a vacation rental license on Shelter Island.

(i) Nontransferable. The vacation rental license is specific to the property described on the license and to the individual or entity named on the permit. The vacation rental license may not be transferred, assigned or passed through an estate and does not authorize any person, other than the person named therein, to permit or arrange vacation rentals on the licensed property.

(j) Agent required. The owner(s) of the vacation rental property must execute a written statement, which designates an agent for service for criminal and civil process pursuant to § 318 of the Civil Practice Law and Rules and must be either:

[1] A person, firm, partnership or corporation with an actual place of business, or usual place of residence located within the boundaries of the Town of Shelter Island; and/or

[2] The Town Clerk of the Town of Shelter Island.

(k) Obligation to update address. Every owner of vacation rental property shall

ensure that the address for service of process is current and shall advise the Town Clerk whenever the address is changed.

(1) Neighbor contact. The owner must provide the Town of Shelter Island and to all neighbors within 200 feet of the property line of the vacation rental with:

[1] Owner's personal cell phone number to call in the event of problems with the vacation rental; and/or

[2] The name and telephone number of a local contact person including name, address, phone number, and email address designated as the owner or owner's agent or representative who resides on Shelter Island.

~~(m) Self checklist. Every applicant for a vacation rental license must a notarized self checklist to be available on the Town website verifying the property's compliance with relevant Federal, New York State, Suffolk County and Shelter Island Town regulation.~~

(4) Fund-raising rentals. Vacation rentals are permitted without limitation for the purpose of fundraising on the premises of Taylor's Island Foundation; the Nature Conservancy (Mashomack); Sylvester Manor or any other nonprofit charitable organization that seeks and obtains a waiver from the Town Board.

Section 3. Authority.

The proposed local law is enacted pursuant to Municipal Home Rule Law §10.

Section 4. Severability.

If any section or subsection, paragraph, clause, phrase or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole or any part thereof other than the part, provisions so adjudged to be invalid or unconstitutional.

Section 5. Effective Date.

This local law shall take effect upon the filing with the Secretary of State pursuant to Municipal Home Rule Law.

AND BE IT FURTHER RESOLVED, that the Town Clerk is hereby authorized and directed to publish the following Notice of Public Hearing:

SUMMARY OF PROPOSED LAW

One purpose of this amendment is to try and ensure that every rental dwelling unit within the Town provides a safe environment for the residents thereof. Additionally, it seeks to compel reversion back to the current requirement in the zoning code that accessory apartments, or accessory dwelling units, be solely used for year-round occupancy, and remove this administrative exception in order to put such dwelling units back into the residential year-round occupancy rental pool, in order to provide more community housing opportunities.

WHEREAS, bids were received by the Town Clerk's office for disposal of C&D waste, which were opened publicly and read as follows:

Crown Recycling: \$89.50 per ton
Peconic Transfer & Recycling: \$90.00 per ton
Winter Brothers Recycling: \$89.50 per ton;
and

WHEREAS, the Commissioner of Public Works has reviewed said bid, now,
Therefore BE IT RESOLVED, that said bid is hereby awarded to Crown Recycling.

WHEREAS, bids were received by the Town Clerk's office for Asphalt delivered and applied as well as asphalt picked up, which were opened publicly and read as follows:

Corazzini Asphalt Asphalt delivered and applied: \$124.50
Asphalt picked up: \$92.00

WHEREAS, the Commissioner of Public Works has reviewed said bid, now, Therefore
BE IT RESOLVED, that said bid is hereby awarded to Corazzini Asphalt.

WHEREAS, bids were received by the Town Clerk's office for hauling of hazardous waste, which were opened publicly and read as follows:

MXI Inc.: \$200.00 - \$350 per 55-gallon drum
\$3,500.00 with on-site technician per event; and
Island Pump & Tank: \$332.00 - \$787.00 per 55 gallon drum
\$5,975.00 with on-site technician and pick up; and

WHEREAS, the Commissioner of Public Works has reviewed said bid, now,
Therefore BE IT RESOLVED, that said bid is hereby awarded to MXI Inc.

WHEREAS, Request for Proposals were received by the Commissioner of Public Works until 3 p.m. on the 22nd day of February, 2023, for Electrical Services, at which time they were opened and read as follows:

Dickerson Electric Co. INC Service Call Rate: \$140.00
Emergency Call Rate: \$250.00
Labor Rate: \$140.00/hour; and

WHEREAS, the Commissioner of Public Works has reviewed said proposal,
now,
Therefore
BE IT RESOLVED, that said proposal is hereby awarded to Dickerson Electric Co. INC.

WHEREAS, Request for Proposals were received by the Commissioner of Public Works until 3 p.m. on the 22nd day of February for Heating and Cooling System Services, which were opened and read as follows:

Zurab's HVAC INC Service Call Rate: \$140.00
Emergency Call Rate: \$180.00
Labor Rate: \$140/ hour; and

WHEREAS, the Commissioner of Public Works has reviewed said proposal, now,
Therefore

BE IT RESOLVED, that said proposal is hereby awarded to Zurab's HVAC.

WHEREAS, Request for Proposals were received by the Commissioner of Public Works until 3 p.m. on the 22nd day of February for Tree Services, which were opened and read as follows:

| | | |
|------------------------|---|----------------------------|
| DC Tree Services Corp. | Ariel Truck with Operator: | \$2,500/day \$250.00/hr |
| | Ariel Truck used for Street lights Service: | \$2,500/day \$250.00/hr |

WHEREAS, the Commissioner of Public Works has reviewed said proposal, now,
Therefore

BE IT RESOLVED, that said proposal is hereby awarded to DC Tree Services Corp.

BE IT RESOLVED, that the Supervisor is hereby authorized to execute the contract between the Town of Shelter Island and Solitude for harvesting of undesirable and harmful aquatic vegetation in Fresh Pond. Project is not to exceed \$17,496.00 and funds are to be reimbursed to the Town of Shelter island up to \$10,000.00 from the Fresh Pond Neighbor Association.

BE IT RESOLVED, that the Supervisor is hereby authorized and directed to credit the following:

\$69.42 from Mullen Motors to the A4540.485 Ambulance Vehicle Maintenance account for an invoice overpayment; and
\$3,760.50 from Creative Information Systems to the A8160.484 Landfill Office & Misc. account for an invoice overpayment; and
\$266.66 from Suffolk County to the A3120.200 Police Department Equipment account for scrapped vehicle; and
\$2,716.84 from Suffolk County to the DA2302B account for snow removal reimbursement.

BE IT RESOLVED, that the Supervisor is hereby authorized and directed to expend the sum of \$200.00 from the A3120.484 account to iconectiv, LLC, for ELEP transactions.

WHEREAS, a public hearing was held on Tuesday, March 21, 2023 and April 4, 2023, to hear any and all persons either for or against a Local Law entitled "A LOCAL LAW

amending Chapter 129 entitled “Wetlands”, to transfer approval authority from the Town Board to the Planning Board, enhance the application process, and remedy the clearing inconsistency of which provides as follows:

LOCAL LAW NO. _____ of 2022

A LOCAL LAW amending Chapter 129 entitled “Wetlands”, to transfer approval authority from the Town Board to the Planning Board, enhance the application process, and remedy the clearing inconsistency,

BE IT ENACTED by the Town Board of the Town of Shelter Island as follows:

Section 1. Legislative Intent.

The Town Board finds that the Planning Board due to its collective knowledge of the environment, construction practices, and property design, is the proper board to review and decide upon wetlands permit applications. The Planning Board has heretofore reviewed every wetlands application and provided well-reasoned recommendations to the Town Board to act, thus they are well equipped to accept this delegation which will ultimately streamline the process to save both Town administrative resources and the applicant’s time. Further, the Town Board has determined that the application process could be enhanced, the clearing inconsistency between the clearing code provision and the Wetlands Table can be cured.

Section 2. Amendment.

Section 108(2) of the Shelter Island Code Chapter 129 (Wetlands), is hereby amended by deleting the stricken words and adding the underlined words as follows:

ARTICLE II
Permits

§ 129-2. Permit required. [Amended 12-2-2011 by L.L. No. 7-2011; 4-13-2018 by L.L. No. 3-2018]

Any regulated activity in, on or over or within the regulated area, entirely or in part, shall require a wetlands permit unless it is specifically exempted or allowed without a permit, as indicated in the following table. Any regulated activity for which a permit is required which is carried out without a permit or in violation of the conditions of a permit is a violation of this Code and subject to criminal and civil penalties.

Key:

No = Activity not allowed; however, applications may be processed in consideration of differences between Town Law and DEC laws, if all other remedies have been exhausted and DEC approval is obtained or letter of nonjurisdiction is applicable.

NPR = Activity does not require wetlands permit.

PR = Wetlands permit required.

CPR = Causeway wetland permit required.

| Type of Activity | Within Vegetative Buffer | Within Adjacent Vegetative Buffer | Causeway zone |
|--|--------------------------|-----------------------------------|---------------|
| New structure on lot with or without bulkhead | | | |
| New construction (less than or equal to 100 square feet) | NPR | NPR | CPR |
| Other new construction | No | PR | CPR |
| Existing structure on lot with bulkhead | | | |
| Repair | NPR | NPR | NPR |
| Reconstruction (no expansion) | PR | NPR | CPR |
| Reconstruction with expansion upward within footprint | PR | NPR | CPR |

| Type of Activity | Within Vegetative Buffer | Within Adjacent Vegetative Buffer | Causeway zone |
|--|--------------------------|-----------------------------------|------------------|
| Reconstruction with expansion beyond footprint if it is farther away from the designated wetlands than the nearest point of the existing structure | No | NPR | CPR |
| New construction with expansion upward within footprint | PR | NPR | CPR |
| New construction (less than or equal to 100 square feet) | NPR | NPR | CPR |
| New construction (outside footprint) | No | PR | CPR |
| New construction (all other) | No | PR | CPR |
| Existing structure on lot without bulkhead | | | |
| Repair | NPR | NPR | NPR |
| Reconstruction (no expansion) | PR | PR | CPR |
| Reconstruction with expansion upward within footprint | PR | PR | CPR |
| Reconstruction with expansion beyond footprint if it is farther away from the designated wetlands than the nearest point of the existing structure | No | PR | CPR |
| New construction with expansion upward within footprint | PR | PR | CPR |
| New construction (less than or equal to 100 square feet) | NPR | NPR | CPR |
| New construction (outside footprint) | No | PR | CPR |
| New construction (all other) | No | PR | CPR |
| Clearing (<u>Except for clearing authorized under § 129-3(B)</u>) | No PR | No PR | No PR |
| Necessary public facilities | NPR | NPR | NPR |
| Landscaping (per code restrictions) | NPR | NPR | CPR |

| Type of Activity | Within Vegetative Buffer | Within Adjacent Vegetative Buffer | Causeway zone |
|--|--------------------------|-----------------------------------|---------------|
| Construction, creation, elimination, alteration, relocation or enlargement or diminishment of waterway | PR | PR | CPR |
| Demolition | PR | PR | CPR |
| Dock | NPR | NPR | No |
| Bulkhead | NPR | NPR | CPR |
| Fill | PR | PR | CPR |
| Fence | NPR | NPR | CPR |
| Driveway | No | PR | CPR |
| Utilities (including well) | NPR | NPR | CPR |
| Septic (changes to existing) | PR | PR | CPR |
| Septic (new) | No | No | CPR |
| Septic (abandonment by backfilling and/or removal of existing) | NPR | NPR | CPR |

§ 129-3. General guidelines to activities within regulated area.

- A. Planting, seeding, cultivating or maintaining a previously disturbed area is allowed so long as there is no use of sod, turf, fertilizers, pesticides, herbicides, fungicides or other pollutants. New or replacement plantings in the vegetative buffer shall be of native vegetation, as set forth in a list approved by the Planning Town Board.
- B. Undisturbed areas must remain in a natural, undisturbed state, except for the following:
 - (1) Removal of dead, diseased or damaged trees when such removal is necessary for reasons of safety or to control the spread of disease.
 - (2) Removal of obnoxious plant growth such as catbrier, poison ivy, wild grape, oriental bittersweet, Russian olive or other common invasive species.
 - (3) Removal of vegetation on a five-foot wide path for access to, or for construction of, a dock, bulkhead or boardwalk, or other access to the water.
 - (4) Tree limbs may be trimmed upward from the ground to a maximum of 15 feet to permit water views. It is permitted to remove trees of less than four inches in diameter when measured four feet above ground level as long as root structure is not removed and the ground area remains vegetated.
 - (5) Shrubs may be trimmed to a height of four feet to enhance growth of nearby ground

vegetation.

- C. Construction of a dock, bulkhead and boardwalk, does not require a wetlands permit so long as the applicant has obtained a permit pursuant to Chapter 53 of this Code, and the project does not require any disturbance, removal or filling of wetlands or produce any negative impact on the wetlands. No new bulkheads will be allowed unless the applicant can demonstrate that land and/or a significant structure(s) on the property are in imminent peril of destruction from erosion and that other measures of curtailing erosion, such as rock revetments, vegetation restoration, etc., are not viable.
- D. The depositing or removal of the natural products of wetlands during recreational or commercial fishing, shellfishing or aquaculture is allowed so long as there is no undue disturbance of the wetlands.
- E. Any actual and ongoing emergency activity which is immediately necessary for the protection and preservation of life, property or natural resources may be done on a temporary basis without a permit, although the applicant must subsequently obtain a permit if one is required.
- F. The dumping of sewage, liquid waste, refuse, toxic or other offensive materials shall not be permitted within the regulated area, except as permitted by the DEC and the Town.
- G. Any activity which is not required to obtain a wetlands permit is still subject to all other permit requirements.
- H. The wetlands permit exemption for new construction less than or equal to 100 square feet is an exemption of all new accumulated construction totaling 100 square feet or less . [Added 5-25-2007 by L.L. No. 4-2007]

§ 129-4. Permit procedure.

A. The owner or authorized agent of the owner proposing to conduct or cause to be conducted a regulated activity as defined herein upon or over any wetland or within a regulated area shall file an application for a permit on a form prescribed by the Planning Town Board. Such application shall include the following:

(1) A current, certified survey prepared by a licensed surveyor or certified site plan prepared by a licensed architect, landscape architect, or engineer based on a certified survey which shall also be included, showing the information set forth in the application form approved by the Planning Town Board including a delineated wetlands boundary, flagged by a credentialed environmentalist within five (5) years of submission of the application.

(2) The short form Environmental Assessment Form (EAF) mandated by SEQRA and the Shelter Island Local Environmental Quality Review Law, Chapter 60, setting forth the information and documentation required for a project permit involving wetlands or the regulated area, subject to a request by the Town Board for additional information in a long form EAF.

(2) ~~(3)~~ A notice of disapproval issued by the Building Department disapproval letter and the wetlands application form indicating all proposed structures, and the requisite fee, established from time to time by resolution of the Town Board.

~~(3)~~ (4) A vegetation plan from a licensed design professional must be submitted for any proposal which involves new construction, showing the way in which the vegetative buffer will be affected and preserved including the existing and proposed vegetation, density of buffer, screening, landscaping to be utilized and any other information required by the Planning Board or Conservation Advisory Council.

~~(4)~~ (5) Additional hydrological computations, topographical or engineering studies, ecological site plan or other factual or scientific data as deemed necessary by the Planning Town Board.

~~(5)~~ (6) Current photographs of the proposed site showing proposed project location, current vegetative buffer, and existing sediment/erosion controls.

~~(6)~~ (7) Copies of any such application shall be filed with the Planning Board Town Clerk in the number and manner prescribed by the Planning Board resolution of the Town Board. [Amended 8-4-2006 by L.L. No. 11-2006; 7-10-2009 by L.L. No. 10-2009]

~~(8)~~ Proof of insurance in force: from the owner, a certificate of insurance for at least \$500,000 liability on the location and operations covered by said permit. [Added 8-4-2006 by L.L. No. 11-2006]

B. The applicant shall submit one original and fifteen copies of the application and required documents, including a Portable Document Format "PDF" version. Upon receipt of all copies of the complete application, the Planning Board Town Clerk shall forward ~~one copy to the Planning Board, one seven copies to the Conservation Advisory Council, and five copies to the Town Board.~~ The Planning Board and the Conservation Advisory Council shall review said application and shall have a forty- five-day period following transmittal of the application to forward their written report of findings and recommendations to the Planning Town Board.

C. The Planning Town Board will only accept and process wetlands permit applications ~~only~~ if they are accompanied by any requisite authorization from the New York State Department of Environmental Conservation, and/or a copy of the Suffolk County Department of Health Services permit or application for permit. ~~a DEC wetlands permit and all other required permits, including the Health Department and Army Corps approvals.~~

D. Any application for a wetlands permit shall be subject to coordinated review with the Department of Environmental Conservation in accordance with the Lead Agency Agreement executed on June 20, 1983.

E. The Planning Town Board shall schedule a public hearing on the application with no less than 10 days' notice, to be given as follows: [Amended 10-2-2009 by L.L. No. 16-2009]

(1) Upon receipt of a complete application, and findings or recommendations from the Conservation Advisory Council, or after the requisite timeframe for receipt of same has elapsed pursuant to section 129-4(B), the Planning Board ~~before which it will be heard~~ shall fix a time and place for a public hearing and shall provide for giving notice of same by publishing a notice in the official newspaper at least 10 days prior to the

hearing.

(2) In addition, at least 10 days prior to the hearing, the applicant shall mail notice of the time, date, place and nature of the hearing to the owners of record of every property-~~which abuts and every property~~ which is within 200 feet of the property involved in the application. Such notice shall be made by certified mail and addressed to the owners at the addresses listed for them on the local assessment roll. On or before the commencement of the public hearing, the applicant shall file a radius map ~~prepared by a professional~~ and an affidavit with postal receipts annexed thereto confirming mailing of said notices.

(3) The applicant or his agent shall also erect or cause to be erected a sign or signs which shall be displayed on the parcel upon which the application is made, facing each public street on which the property abuts, giving notice that an application has been made to the Planning Town Board, and stating the time and place where the public hearing will be held. The sign(s) shall not be located more than 10 feet from the street line, and shall not be less than two feet nor more than six feet above the natural grade at the street line. The sign(s) shall be displayed for not less than 10 days immediately preceding the public hearing date. The applicant shall file an affidavit with the Planning Town Board that he has complied with the provisions of this section. Failure to submit such affidavit shall result in the adjournment of the public hearing.

F. Within 60 days after the public hearing or receipt of any requested information, whichever is later, the Planning Town Board shall render a decision to approve, approve with modifications or conditions or disapprove the issuance of a permit.

G. ~~Should a permit be granted, the applicant shall, before the issuance of such permit, file with the Town Clerk a certificate of insurance showing the Town of Shelter Island as an additional-insured under a comprehensive general liability policy with minimum limits of \$500,000. The work covered by the permit must be substantially started within two years of issuance, or the permit is void. The permit shall be valid for a period of two years from date of issuance.~~
[Amended 8-4-2006 by L.L. No. 11-2006]

H. Any new or additional activity not covered in the original wetlands permit shall require an amendment to the wetlands permit. The amendment follows the same application process as a new wetlands permit.

I. A permit may be extended by resolution of the Planning Town Board for an additional period of one year without a public hearing, provided that the request for same is submitted no later than the expiration date. [Added 5-29-2009 by L.L. No. 7-2009]

§ 129-4.1. Causeway wetlands permit regulations. [Added 12-2-2011 by L.L. No. 7-2011]

The owner or authorized agent of the owner proposing to construct or develop a property within the causeway shall meet the following additional requirements in submitting their application regardless of the distance of the development from the wetlands.

A. Additional application requirements.

(1) In addition to the application requirements set forth in § 129-4, applicant shall

submit the following additional information:

- (a) A survey drawn to a scale no smaller than one inch to 50 feet, showing the location of the proposed activity, and depicting the existing natural vegetation and the proposed areas to be disturbed;
- (b) A plan showing all areas proposed to be disturbed or upon which equipment is to be staged during construction;
- (c) A native revegetation and restoration plan for the disturbed areas;
- (d) An analysis of a plan to grade or otherwise alter the existing topography, including calculations as to the amount of material to be disturbed, the source of the material, and the plan to stabilize the material. A plan should be submitted showing existing grades and post-construction grades. The post-construction grading shall be designed to facilitate grading by original natural patterns;
- (e) Full design specifications for the septic system, including Board of Health approval and a copy of all submissions, reports and materials sent to and received back from the Board of Health;
- (f) Design specifications for any foundation or pilings proposed for the project, including number of piles, distance driven into the earth, height above natural grade and material used;
- (g) Elevation plans for the proposed structure;
- (h) Each application for development shall include erosion and sedimentation control measures during and post-construction, identifying all measures and showing proposed locations. The plan shall also identify all devices used to collect and recharge stormwater runoff from impervious surfaces.
- (i) Copies of all other necessary permits.

B. Design specifications for causeway wetlands permit. All applications for a Causeway Wetlands Permit shall meet the following design specifications in addition to the design specifications for all wetlands permits.

(1) Natural vegetation protection measures.

- (a) The causeway footprint of any dwelling on the property shall be limited as follows:
 - [1] Causeway footprint on a lot of more than 200,000 square feet (excluding wetlands): 1,800 square feet.
 - [2] Causeway footprint on a lot between 40,000 and 200,000 square feet (excluding wetlands): 1,800 square feet.
 - [3] Causeway footprint on a lot of less than 40,000 square feet (excluding wetlands): 1,000 square feet.

- (b) The total area of clearing or other disturbance of native vegetation or natural grades ("site disturbance") shall not exceed the causeway footprint of the structure plus a twenty-five-foot radius around it. An additional twenty-five-foot radius may be cleared around the well and septic system. Invasive vegetation may be removed.
- (c) Landscaping within the approved site disturbance area shall be at the discretion of the Planning Town Board. In the application for a causeway wetlands permit, the owner shall submit a survey by a licensed surveyor identifying the limits of proposed site disturbance and the amount and percentage of the lot to be cleared or disturbed.
- (d) Stormwater runoff from impervious surfaces shall be collected and recharged.
- (e) The landscaping shall not involve the addition of any fill, with the exception of that needed for a raised septic system and the required screening planting around the septic system.
- (f) Any and all applications for a causeway wetlands permit or building permit within the causeway zone shall include native revegetation and restoration measures sufficient to meet the standards set forth below:
 - [1] The limits of site disturbance shall be identified.
 - [2] The applicant for a permit shall have the proposed building and/or structure and the areas to be disturbed staked by a licensed surveyor in accordance with the survey. In addition, stakes shall be installed marking the perimeter of the area to be disturbed.
 - [3] The application shall contain a series of photographs showing existing vegetation on the property.
 - [4] Each application for development shall include a revegetation and restoration plan, which utilizes native vegetation and which revegetates and restores areas that are temporarily cleared or disturbed beyond the limits set forth in § 49-7(B) during development activities, or are required to be revegetated pursuant to a plan approved by the Planning Town Board.
 - [5] Applicants are advised that all disturbed area other than the actual construction footprint shall be replanted with native vegetation. No lawns, nonnative plantings or plantings that require irrigation or fertilization are allowed as the frequent flooding of these properties makes the viability of such landscaping unlikely.
 - [6] Revegetation and restoration shall, to the maximum extent possible, result in the reestablishment of the native vegetation which existed prior to site disturbance.
 - [7] Native vegetation authorized and approved by the Conservation Advisory Council shall be used for revegetation and restoration

purposes.

- (g) All driveways must be permeable and use crushed shells or other materials with little visual impact. The largest materials used should be three-quarter-inch crushed multicolor-blend rock.

(2) Shoreline protection measures.

- (a) In the causeway zone, construction of new erosion protection structures is not allowed. Reconstruction or modification of lawfully preexisting erosion protection structures is allowed in accordance with § 133-23.
- (b) No new bulkheads, docks or shoreline hardening devices can be constructed on causeway zone property.

(3) Aquifer and water protection measures.

- (a) Accessory uses, buildings and structures are prohibited, in order to reduce demands on the limited aquifer in the causeway zone. This includes garages, sheds, swimming pools and other accessory structures and uses.
- (b) An accessory apartment or accessory sleeping quarters, separate from the dwelling, is prohibited.
- (c) All development involving the use of a reverse osmosis system in the causeway zone shall be subject to the standards set forth below:

[1] Brine, or other byproducts of the reverse osmosis products, shall not be put back into the aquifer, and provision must be made for collection in a holding tank and off-island disposal at a qualified facility;

[2] Applicant shall submit a plan showing the following:

- [a] The manufacturer, size and location of the proposed reverse osmosis system, including the size, location and specifications for the proposed holding tank;
 - [b] The approval of the Suffolk County Health Department and other applicable agencies of the proposed system;
 - [c] The plan and timing of collection and off-island disposal at a qualified facility, including the name and location of the proposed facility.
- (d) The brine tank must be set back at least five feet from any side yard line and must be screened from public view by plantings at least as tall as the tank. The plantings must be of native vegetation, and applicant shall submit a plan showing the location and type of screening proposed.

- (e) The ~~Planning Town~~ Board would consider a trucked-in water option in lieu of a reverse osmosis system if owner can get approval of the Suffolk County Health Department.

(4) Septic system protection measures.

- (a) Any and all applications for a causeway wetlands permit to construct a raised septic system within the causeway zone shall include measures sufficient to meet the standards set forth below:

- [1] A septic system must be located at least 150 feet from the wetlands, as defined in Chapter 129;

- [2] A raised septic system must be screened from public view by plantings at least as tall as the raised septic system. The plantings must be of native vegetation, and applicant shall submit a plan showing the location and type of screening proposed;

- [3] A raised septic system retaining wall must be set back five feet from the property line in order to provide room for the screening plantings on the owner's property;

- [4] Applicant must make every effort to minimize ground disturbance and the use of fill in constructing the raised septic system, and shall submit a plan showing the following:

- [a] The height and location of the proposed raised septic system;

- [b] The Suffolk County Health Department approval of the proposed system;

- [c] The limits of site disturbance shall be identified;

- [d] The applicant shall indicate the amount of fill needed to install the system and the source of fill material.

(5) Viewshed protection measures.

- (a) Any and all applications for a causeway wetlands permit to construct a dwelling within the causeway zone shall include measures sufficient to meet the standards set forth below:

- [1] Building height, as defined in Chapter 133, shall not exceed 25 feet from natural grade;

- [2] Fill shall not be used to alter the natural grade.

- (b) Accessory uses, buildings and structures are prohibited. This includes garages, sheds, swimming pools, sports courts and other accessory structures and uses.
- (c) Driveway design standards. Driveways shall not have a driveway apron. If possible, driveways should be S-shaped to screen the house from the road.
- (d) There shall be a twenty-foot undisturbed natural vegetation buffer maintained between the road and the house to minimize the visual impact of development.
- (e) There shall be no regrading of the property to block the natural flow of water that currently flows off the road onto the property.
- (f) Catwalks that are constructed solely for pedestrian use and built by an individual property owner for the limited purpose of providing noncommercial access to the beach may be allowed if they meet the following criteria:
 - [1] They are no more than three feet wide;
 - [2] The surface shall be of light permeable deck grating;
 - [3] The structure shall be built with non-chemically-treated material;
 - [4] Owner gets appropriate permits for such structure.

(6) Flood protection measures.

- (a) Since the property is extremely susceptible to flooding, any issuance of a causeway wetlands permit will involve a weighing of the following factors:
 - [1] Whether the structure, use or operation under consideration is one for which the possibility of obtaining flood insurance is or should be a material consideration.
 - [2] Whether the structure, use or operation under consideration is appropriate and suitable to this flood-prone area and ways in which flood impacts on the public can be mitigated.
 - [3] Whether the development meets appropriate state and federal guidelines and standards for the use of lands extremely susceptible to flooding under FEMA criteria.
- (b) It shall be understood by all persons that issuance of a causeway wetlands permit for development in this flood-prone area is no guarantee that such development is prudent or desirable. All parties receiving a causeway wetlands permit shall sign a document on behalf of the owner or owner's heirs, assigns, personal representatives and estate releasing, forever discharging and covenanting not to sue the Town of Shelter Island, its departments, officers, boards, employees and volunteers with respect to any and all claims, liabilities, demands or causes of action which may arise in connection with issuance of permits for development in this flood-prone area.

- A. No permit shall be issued unless the applicant demonstrates, and the Planning Town Board finds, that the following standards have been met:
- (1) The proposed action and location will not create a risk of impairing the function and value of the wetland and buffer.
 - (2) The proposed project will not diminish any wetland in size, unless the approving authority finds that the proposed activity is water-dependent or requires access to the wetland as a central element of its basic function and will result in the minimum possible alteration or impairment of the wetland.
 - (3) The proposed project will not have a negative impact on the quantity and quality of groundwater.
 - (4) The proposed project will not create a net increase in the risk of runoff.
 - (5) The applicant has demonstrated that there are no practicable alternatives which allow the project to be constructed outside the regulated area. Practicable alternatives are presumed to be available unless the applicant clearly demonstrates otherwise. In making this determination, note that the Planning Town Board generally finds that conducting the proposed regulated activity on the side or landward side of the house is highly preferred to conducting it within the regulated area.
 - (6) The applicant has submitted information to describe alternative site locations and configurations sufficient for a determination that the proposed work and location would have a less adverse environmental impact than any other practicable alternative in order for it to be approved. Practicable alternatives that are constructed entirely outside the vegetative buffer are presumed to have less adverse impacts on the wetlands than projects that do not meet such standards, unless the applicant clearly demonstrates otherwise.
 - (7) The Planning Town Board has determined that the applicant will voluntarily implement, within three months of the issuance of the permit, adequate mitigation measures that contribute to the protection and enhancement of wetlands and wetland benefits.
- B. The Planning Town Board reserves the right to impose any conditions and mitigation measures it deems to be compatible with the purpose and public policy of this chapter.
- C. Upon completion of the permitted project the applicant shall contact the Town's Environmental Consultant, fees to be incurred by the applicant, to confirm that the subject buffer, if any, meets the requirements of this Chapter and the conditions of the permit. If confirmed, and all of the other terms are met, the Building Inspector shall issue a certificate of wetlands compliance.

§ 129-5.1. Criteria for causeway wetlands permit issuance. [Added 12-2-2011 by L.L. No. 7-2011]

A causeway wetlands permit will be issued only with a finding by the Planning Town Board that the proposed regulated activity meets the findings of § 129-5 and meets the following additional requirements:

- A. Is reasonable and necessary, considering reasonable alternatives to the proposed activity and the extent to which the proposed activity requires a shoreline location.
- B. Is not likely to cause a measurable increase in flooding or erosion at the proposed site and at other locations.
- C. Prevents, if possible, or minimizes adverse effects on natural protective features and their functions and protective values and natural resources, including, but not limited to, significant fish and wildlife habitats.
- D. Is constructed and placed in a way to minimize or prevent damage or destruction to manmade property, private and public property, natural protective features, viewscapes and other natural resources.
- E. Will not overly stress or contaminate the aquifer in the neighborhood of the project.
- F. The Planning Town Board may waive some of the causeway wetlands permit requirements in order to achieve goals that further the stated purpose of the causeway wetlands permit legislation, but shall provide a written analysis of any such waivers.

§ 129-5.2. Permitting body for causeway wetlands permit. [Added 12-2-2011 by L.L. No. 7-2011]

The Shelter Island Planning Town Board shall be the body responsible for reviewing and issuing causeway wetlands permits. To the extent possible, this process shall occur simultaneously with any zoning review by the Zoning Board of Appeals.

§ 129-6. Fees.

The fees for an application under this chapter shall be set from time to time by resolution of the Town Board.

§ 129-7. Waiver.

The Planning Town Board, upon the request of an applicant for a permit, may waive the submission of any information required by the provisions of § 129-4, if it finds it to be unnecessary.

Section 3. Authority.

The proposed local law is enacted pursuant to Municipal Home Rule Law §10.

Section 4. Severability.

If any section or subsection, paragraph, clause, phrase or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole or any part thereof other than the part, provisions so adjudged to be invalid or unconstitutional.

Section 5. Effective Date.

This local law shall take effect upon the filing with the Secretary of State pursuant to Municipal Home Rule Law.

SUMMARY OF PROPOSED LAW

The purpose of this local law is to address administrative inefficiencies in the processing of Wetlands Permit Applications by delegating approval authority from the Town Board to the Planning Board, upgrade the application process, and cure an internal clearing inconsistency.

RESOLUTIONS FOR AFTER PUBLIC HEARING

WHEREAS, Serena Dugan, 37 Tuthill Drive, has petitioned the Town of Shelter Island for permission to install a mooring at a location designated as latitude 41.073617° north and longitude -72.285644° west, and

WHEREAS, a public hearing was duly held on the 25th day of April, 2023, for all interested persons to be heard in favor of or in opposition, now, therefore

BE IT RESOLVED, that the Town Clerk is hereby authorized to issue a permit for aforementioned installation at a location designated as latitude 41.073692° north and longitude - 72.285299° west, as per WMAC recommendation.

WHEREAS, a public hearing was held on Tuesday, April 25, 2023, to hear any and all persons either for or against a Local Law entitled “A LOCAL LAW adding a new Chapter 106, entitled “Rights-of-Way”, to prohibit certain obstructions into a public right of way, of which provides as follows:

LOCAL LAW NO. 3 of 2023

A LOCAL LAW adding a new Chapter 106, entitled “Rights-of-Way”, to prohibit certain obstructions into a public right of way

BE IT ENACTED by the Town Board of the Town of Shelter Island as follows:

Section 1. Legislative Intent.

The Town Board finds that dangerous conditions exist when certain obstructions, such as hedges and other vegetation, encroach from private property into a right of way or placed within, so as to significantly limit sight lines and access to road shoulders. Islanders and guests generally are active and enjoy walking, running, and biking, on our sometimes narrow and winding roads, and in order to protect their health, safety, and welfare, the rights of way need to be free and clear from obstructions in order to afford unimpeded sight lines and areas on the road shoulder to avoid oncoming vehicular traffic. It is the intent of this local law to protect those persons travelling on a road, whether vehicularly, by bike, or by foot, from the risk of injury that may reasonably be anticipated from reduced visibility and lack of a shoulder caused by overgrown vegetation.

Section 2. Amendment.

The Shelter Island Code is hereby amended by adding a new Chapter 106 to be entitled “Rights-of Way” by adding the underlined words as follows:

§ 106-1. Title.

This Chapter shall be known and may be cited as “Rights-of -Way”.

§ 106-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

Obstruction—Material located within the boundaries of a highway including the right of way

or “shoulder”, that interferes with public travel, whether vehicular, by bicycle, or foot, including vegetation, lumber, wood or logs, rocks, pipes, fencing, and athletic equipment.

Right-of-Way—The land owned by the state, county, or Town which is occupied or intended

to be occupied by a road, sidewalk, and/or utility lines, such as electric, gas, oil, water, sanitary sewer or storm sewer. The right-of-way shall include the road, the sidewalk, any grass area or shoulder.

§ 106-3. Obstructions Prohibited.

It shall be prohibited for any person, firm, corporation to cause, permit, or allow any obstruction to exist within the right-of-way. It shall be the responsibility of the property owner to immediately remove all obstructions within the right-of-way adjoining their property and to restore the right-of-way to its original condition and design.

§ 106-4. Authority to serve notice and abate immediate danger.

The Superintendent of Highways, or their designee, or any Town of Shelter Island Police Officer may, if necessary, provide notice to be served upon owners, as hereinafter provided,

to remove any obstruction which may exist upon a right of way adjoining their property. If there is an immediate danger to pedestrian, bicycle, or vehicular traffic, the obstruction may be removed immediately by the Superintendent of Highways or his designee, or a Town of

Shelter Island Police Officer without prior notification to the adjoining property owner.

§ 106-5. Form of Notice; service of notice.

Whenever the Highway Superintendent or their designee or a Town of Shelter Island Police Officer requires the owners of land to correct violations of this chapter, the notice shall

specify the place, manner, and time within which the subject obstruction shall be removed.

The notice shall be served upon such owner or owners personally or by registered or certified mail, return receipt requested, at their last known address.

§ 106-6. Failure to comply; work done by the Town; costs.

Whenever a notice has been served upon such owner(s) of the subject property to correct violations of this chapter, and such owner(s) shall neglect or fail to comply with

the requirements of such notice within the time frame provided therein, the Highway Superintendent shall be notified of such violation and shall immediately cause such obstruction to be removed. All costs and expenses expended therewith, including the restoration of the subject right of way to its original condition and design, shall be assessed against the land of the adjoining owner, and a statement of such expenses shall be presented to said owner and shall be posted on the subject premises. Such assessment shall constitute a lien upon such land. If the owner fails to pay such expenses within ten(10) days after the statement is presented or posted, a legal action may be commenced to collect such assessment or to foreclose upon such lien. As an alternative to such an action, the Highway Superintendent may file a certificate of actual expenses incurred, along with a statement identifying the property in connection with which the expenses were occurred and the owner thereof with the Assessors, who shall, in the preparation of the next assessment roll, assess such amount upon such property. Such amount shall be included in levy against such property, shall constitute a lien and shall be collected and enforced in the same manner by the same proceedings, at the same time and under the same penalties as is provided by law for the collection and enforcement of real property taxes in the Town of Shelter Island.

§ 106-7. Penalties.

Any person who neglects, refuses, or fails to comply with any order or notice issued hereunder shall be guilty of an offense punishable by a fine not to exceed \$2,000.00 or by imprisonment for a term not to exceed 15 days, or both such fine and imprisonment.

Each day's continued violation shall constitute a separate additional offense or violation.

Section 3. Authority.

The proposed local law is enacted pursuant to Municipal Home Rule Law §10 and Town Law §130(7).

Section 4. Severability.

If any section or subsection, paragraph, clause, phrase or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole or any part thereof other than the part, provisions so adjudged to be invalid or unconstitutional.

Section 5. Effective Date.

This local law shall take effect upon the filing with the Secretary of State pursuant to Municipal

Home Rule Law.

SUMMARY OF PROPOSED LAW

The purpose of this local law is to protect the health, safety, and welfare of those who traverse Shelter Island roads by prohibiting obstructions within the shoulders thereof. It also allows the Town to remove such obstructions, if the property owners adjoining same fail to do so.
