

# The Town of Wilmington

7 Community Center Circle  
Wilmington, New York 12997

## Special Board Meeting

September 26, 2023

**A special meeting of the Wilmington Town Board was held this evening in the Community Center to discuss and vote on the Resolution With Respect to Town Beach Parking Lot.**

In attendance were Supervisor Roy Holzer, Councilwoman Michelle Preston, Councilwoman Tina Terry Preston, Councilman Darin Forbes and Councilman Tim Follos

Also in attendance were Nancy Randall Deputy Town Clerk, Laura Dreissigacker Hooker, Tony Nickinello, Richard Nolan and Barb Funk

**The meeting was called to order at 4:30 PM by Supervisor Holzer and following the Pledge of Allegiance, a brief discussion with the audience surrounding the reason for the Resolution, a MOTION that the resolution shall take effect immediately was made by TINA TERRY PRESTON, SECONDED by MICHELLE PRESTON and carried with All IN FAVOR.**

**Members of the Town Board voted as follows;**

<b>ROY HOLZER</b>	<b>YES</b>
<b>DARIN FORBE</b>	<b>YES</b>
<b>TIM FOLLOS</b>	<b>YES</b>
<b>MICHELLE PRESTON</b>	<b>YES</b>
<b>TINA TERRY PRESTON</b>	<b>YES</b>

The meeting was adjourned at 4:40 PM when the Board Members went into executive session, which concluded at 4:53 PM

**TOWN OF WILMINGTON TOWN BOARD**  
**Resolution With Respect to Town Beach Parking Lot**

**WHEREAS**, the Town of Wilmington has previously advertised public use of a parking lot located on land owned and controlled by First Columbia, LLC off NYS Route 86, identified as Tax Map Parcel #26.6-5-76.000 (the “Parking Lot”) for use as public parking by beachgoers at the Town Beach located at 46 Bowman Lane, Wilmington, NY 12997;

**WHEREAS**, in January 2020 Petitioners Rose Cooney and Lawrence Hegele commenced an action against First Columbia and Town Supervisor Roy Holzer<sup>1</sup>, alleging that the Parking Lot constituted a nuisance, requesting damages, and further requesting injunctive relief (the “Action”);

**WHEREAS**, Petitioners’ complaint seeks, among other things, an injunction directing that the Parking Lot be shut down and alternative parking be developed;

**WHEREAS**, Supreme Court, Essex County has dismissed all claims for damages against the Town in the Action but declined to dismiss the claims for injunctive relief against the Town;

**WHEREAS**, the Town has appealed Supreme Court’s decision declining to dismiss the injunction claims against the Town;

**WHEREAS**, the Action is further scheduled for trial against First Columbia and the Town in Supreme Court, Essex County beginning on or about October 30, 2023;

**WHEREAS**, solely in the interest of avoiding the significant Town resources and monies that will be expended to pursue both an appeal and trial of the Action, and without any admission whatsoever of any wrongdoing or liability with respect to the claims asserted against the Town in the Action, the Town Board deems it appropriate to discontinue any Town use of the Parking Lot and explore alternative locations for parking to support beachgoers at the Town Beach;

**NOW, THEREFORE, BE IT RESOLVED**, that the Town of Wilmington hereby discontinues and abandons any use or maintenance of the Parking Lot, including in any manner that would support public parking at the Town’s Beach, and further prohibits any future use or maintenance of the parking lot by the Town of Wilmington as public parking for the Town Beach; and be it further

**RESOLVED**, that the Town of Wilmington hereby authorizes the Town of Wilmington Supervisor and any other necessary Town officials or agencies to undertake any and all actions necessary to discontinue the Town’s use of the Parking Lot,

**RESOLVED**, that this resolution shall take effect immediately.

Motion by: Tina Terry Preston \_\_\_\_\_

<sup>1</sup> Although Petitioners named the Town Supervisor, and not the Town, as a party to the case, Supreme Court, Essex County has held that Petitioners’ claims are asserted against the Town.

Seconded by Michelle Preston \_\_\_\_\_

The foregoing resolution was voted upon at a special meeting of the Town Board for the Town of Wilmington duly held on the 26th day of September, 2023, with members of the Town Board voting as follows:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Roy Holzer, Supervisor	Yes___	_____	_____	_____
Darin Forbes	Yes___	_____	_____	_____
Tim Follos	Yes___	_____	_____	_____
Michelle Preston	Yes___	_____	_____	_____
Tina Terry Preston	Yes___	_____	_____	_____

Dated: September 26, 2023

Town of Wilmington, New York

**VOTE IS CERTIFIED BY:**

  
Nancy Randall, Deputy Town Clerk

September 26, 2023  
Date

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Roy Holzer, Supervisor	<u>✓</u>	_____	_____	_____
Darin Forbes	<u>✓</u>	_____	_____	_____
Tim Follos	<u>✓</u>	_____	_____	_____
Michelle Preston	<u>✓</u>	_____	_____	_____
Tina Terry	<u>✓</u>	_____	_____	_____

Dated: 9-26, 2023

Town of Wilmington, New York

**VOTE IS CERTIFIED BY:**

Nancy P. Randall  
Nancy Randall, Deputy Town Clerk

Sept 26, 2023  
Date