

MINUTES OF THE
REGULAR MEETING OF THE TOWN BOARD
OF THE TOWN OF ELLICOTTVILLE, February 17, 2021 at 6:00 pm

<u>Present:</u>	Matthew McAndrew	Supervisor
	Greg Fitzpatrick	Councilman
	Ken Hinman	Councilman
	John Zervas	Councilman
<u>Via phone:</u>	Steve Crowley	Councilman
	Kathleen Moriarty	Attorney for Town
	Robyn George	Town Clerk
	Tom Scharf	Highway Superintendent
	Gary Palumbo	Town Planner
	Don Auge	OIC

Others present via phone:

Call meeting to order:

Supervisor McAndrew called the meeting to order at 6:00pm and led the Pledge to the Flag. The meeting was not open to the public (in person) but could be accessed via teleconferencing.

Approve Minutes

- Town Board Meeting –January 20, 2021

On motion by Mr. Zervas and second by Mr. Fitzpatrick the minutes of the January 20th Board meeting were:

Accepted Ayes 4 - McAndrew, Crowley, Hinman, Zervas & Fitzpatrick
 Nays 0

Audit of Claims

- Pay Town bills on Distribution Report #02-2021

On motion by Mr. Hinman and second by Mr. Zervas the following resolution was

Accepted Ayes 4 - McAndrew, Crowley, Hinman, Zervas & Fitzpatrick
 Nays 0

Resolved that the Town bills be paid on General Ledger Distribution Report 02-21 as follows:

001 - General Fund A:	\$ 19,997.91		
002 - General Fund B:	\$ 4,731.93		
		General Fund Total:	\$ 24,729.84
004 - Highway DB	\$ 62,921.85		
		Highway Fund Total:	\$ 62,921.85
006 - Water	\$ 15,689.90		
		<u>006 - Water Fund Total</u>	<u>\$ 15,689.90</u>
		Grand Total:	\$103,341.59

Supervisor's Reports

- Accept Supervisor's January 2021 Financial Report

On motion by Mr. Fitzpatrick and second by Mr. Hinman the Supervisor's January 2021 Financial Report was

Accepted Ayes 5 - McAndrew, Crowley, Zerfas, Hinman & Fitzpatrick
Nays 0

- Water Meeting

A meeting was held regarding water rates. Charging non-users within the water district was discussed.

- Renew Engineer IMA with Village

An IMA was presented to continue to share engineering services with the Village. There are no changes to it other than the agreement continues for another 2 years. The Village will look at it at their next meeting.

On motion by Mr. Crowley and second by Mr. Zerfas the following resolution was

Accepted Ayes 4 - McAndrew, Crowley, Hinman, Zerfas & Fitzpatrick
Nays 0

Resolved that the Town Board authorizes the Town Supervisor to sign the Intermunicipal Agreement for Shared Services of Engineer as presented, pending approval by the Village Board.

- Police Vehicle – 2016 Tahoe

The trade in value of the 2016 Tahoe is \$9500. The Board discussed whether to accept the trade-in, auction the vehicle, or donate it to the EVGV Ambulance Department. There is a possibility that the Ambulance Department would be able to pay something for the Tahoe. OIC Auge pointed out that \$9500 would help with the expense of outfitting the new vehicle.

MOTION by Mr. Hinman, seconded by Mr. Zerfas to table the decision on what to do with the old Tahoe until more information from the ambulance department is obtained and the cost of outfitting the new vehicle is determined. All Ayes. Carried.

- CD's/Money Market Account

Supervisor McAndrew discussed how to invest the Town's money with Andy Toth, the Town's accountant. Rates are higher on Money Market accounts than they are on CD's. Mr. Toth recommended moving all of the Town's funds into a Money Market account.

On motion by Mr. Fitzpatrick and second by Mr. Zerfas the following resolution was

Accepted Ayes 4 - McAndrew, Crowley, Hinman, Zerfas & Fitzpatrick
 Nays 0

Resolved that the Town move it's funds to a Money Market account.

Present Written Department Reports for Approval

- Clerk's, Police, Justice. Building Inspector's and Planner's Reports

On **motion** by Mr. Hinman and second by Mr. Zerfas the Clerk's, Building Inspector, Police, Justice and Planners reports were:

Accepted Ayes 5 - McAndrew, Crowley, Zerfas, Hinman & Fitzpatrick
 Nays 0

Department Heads

- **OIC Auge - Police Department**

The computers in the police cars need to be upgraded to Windows 10. If they can't be, new computers will be necessary at a cost of \$1800/unit. Supervisor

McAndrew asked Auge to see if there are any grants available for new computers.

- **Gary Palumbo – Town Planner**

Mr. Palumbo will be starting Code Enforcement training from mid-March through mid-July.

At the suggestion of the Village Attorney, the Village Board is mandating that the Village Boards complete Ethics training with a focus on conflicts of interest. A one hour session is scheduled for April 6th at 4:30pm. Mr. Palumbo will be inviting the Town ZBA, Planning Board and Town Board to join.

Mr. Palumbo is proposing that he take over the sign permit activity to increase efficiency in the Zoning Department. A meeting will be scheduled with the Supervisor, Mayor, Trustee Cappelli, and Councilman Zerfas to discuss the roles and responsibilities involved if Mr. Palumbo were to do this.

- **Tom Scharf - Highway Department**

The Town received one bid for the Highway Barn Trench Reconstruction Project. The bid came in at \$59,450.00. The project cost was estimated at \$20,000. Mr. Scharf suggested the putting the project back out for bid.

The Pump Doctor should have the new fuel system up and operational by the end of the week.

- **NYSDOT Resolution**

Motion by Ken Hinman and second by Greg Fitzpatrick

Resolution for the benefit of The New York State Department of Transportation in connection with work affecting state highways.

WHEREAS, the undersigned, Town of Ellicottville (hereinafter referred to as "Permittee") from time to time receives permits from the New York State Department of Transportation (hereinafter referred to as the "NYSDOT") and otherwise conducts activities and operations upon highways and/or within right-of-way controlled by the State of New York for such purposes as the obstruction, installation, construction, maintenance and/or operation of facilities; and

WHEREAS, Permittee's access and operation upon state right-of-way is conditioned upon compliance with Highway Law Sections 52, 103, 203 and/or 234, including the conditions that Permittee assume all responsibility for (a) the temporary control of all modes of traffic (including motorized and non-motorized travel) affected by Permittee's operations, (b) complete restoration of state facilities to their condition prior to permitted use or activity, and (c) all claims, damages, losses and expenses,

NOW THEREFORE, in relation to all operations and/or actions undertaken within state right-of-way, Permittee hereby agrees to the following terms and conditions:

- 1. Permit Applications.** Excepting only activities undertaken to protect public safety because of emergency conditions or incidents, Permittee shall provide timely written notice to NYSDOT of operations or activities affecting state right-of-way. Under normal circumstances, a minimum of five business days notice shall be provided. Notification of emergency activities shall be provided. Notification of emergency activities shall be provided to NYSDOT as soon as practicable after the activity. The Permittee shall apply for project-specific permits for activities not allowed under any existing annual permit. Such application shall identify proposed project locations, desired dates/hours, proposed work/activities, traffic control, and site restoration.
- 2. Applicable Rules, Regulations & Conditions.** Permittee shall comply with all of the laws, rules and regulations applicable to construction, maintenance activities and operations and shall further comply with such terms and conditions that may be imposed by NYSDOT in connection with permitted activity or operations. Temporary Traffic Control, highway safety appurtenances, and restoration of state facilities shall be completed in accordance with NYSDOT regulations and standards.
- 3. Site Restoration.** Permittee shall, at its own expense, promptly complete the work allowed under each permit and, within a reasonable time, restore State property damaged by its work/activities to substantially the same or equivalent condition as existed before such work was begun as determined by the Commissioner or his/her designee. In the event that the Permitted fails to so restore damaged State property within what the Commissioner deems to be a reasonable time, the Commissioner, after giving written notice to the Permittee, may restore the property to substantially the same of equivalent condition as existed before the Permittee's work/activities, in which case, Permittee agrees to reimburse the reasonable expenses in connection therewith.
- 4. Payment & Release of Liens.** Permittee shall be responsible for the payment of all costs and materials relating to its work in the public right-of-way, and agrees to defend and save harmless NYSDOT against Permittee's work.
- 5. Indemnity.** In addition to the protection afforded to NYSDOT under any available insurance, NYSDOT shall not be liable for any damage or injury to the Permittee, its agents, employees, or to any other person, or to any property, occurring on the site or in any way associated with Permittee's activities or operations, whether undertaken by Permittee's own forces or by contractors of other agents working on Permittee's behalf. To the fullest extent permitted by law, the Permittee agrees to defend, indemnify and hold harmless the State of New York, NYSDOT, and their agents from and against all claims, damages, losses and expenses, including but not limited to, claims

for personal injuries, property damage, wrongful death, and/or environmental claims and attorney fees arising out of any such claim, that are in any way associated with the Permittee's activities or operations under any and all permits issued using this Undertaking.

FURTHERMORE, Permittee hereby warrants that the obligations of this Undertaking are backed by the full faith and credit of Permittee. Permittee may insure or bond any of the obligations set forth herein, or may rely upon self-insurance, budgeted funds, or funds for general operations.

This Undertaking shall be applicable to all permitted activities and operations undertaken after the date of execution and work initiated while this Undertaking is in effect. This Undertaking may be revoked by the Permittee or rejected by NYSDOT upon thirty days written notice but will continue to apply to all permitted activities/operations, this Undertaking shall have a term of twenty (20) years and shall be kept on file to facilitate the issuance of future permits to which it will apply.

IN WITNESS WHEREOF, THE Town of Ellicottville agrees to the terms of this Undertaking, and has caused its execution by the authorized officer.

The question of the adoption of the foregoing resolution was duly put to a vote, the vote was:

Matthew J. McAndrew	Supervisor	Aye
Kenneth D. Hinman	Councilman	Aye
Steven J. Crowley	Councilman	Aye
Gregory J. Fitzpatrick	Councilman	Aye
John R. Zervas	Councilman	Aye

The resolution was thereupon declared duly adopted

Old Business

- Valley Village

A construction plan has been identified. The Town will coordinate with the HOA on drainage. Jeff Williams has signed the MOU. Attorney Moriarty will get the other needed signatures.

- Quackenbush Update

The Town is looking at its options. Property owner, Mr. Enright is open to granting a ROW to allow the Town access to the culvert for cleaning. A survey needs to be done in order to move forward.

MOTION by Mr. Zerfas, seconded by Mr. Fitzpatrick to order a survey. All Ayes, Carried.

- EVGV Trail

Southern Tier Regional feasibility study is near completion. The Ellicottville portion of the trail has been given priority. Contributions continue to come in.

- Catt County Extension Lease

Attorney Moriarty finalized the lease and sent it to Dick Rivers.

Correspondence

- Alley Katz Thank You

The Alley Katz sent a note to thank the Town for its donation to help beautify the village with flowers.

Attorney/Client Privilege & Adjournment

Motion by Mr. Hinman, seconded by Mr. Zerfas to adjourn the meeting and enter into Attorney/Client Privilege at 6:50pm. All Ayes. Carried.

I, Robyn A. George, Clerk of the Town of Ellicottville, County of Cattaraugus, State of NY, do hereby certify that the foregoing constitutes the complete minutes of the Town Board Meeting held on the 17th day of February, 2021, approved by said Board on the 17th day of March, 2021

Robyn A. George, Town Clerk