

MINUTES OF THE
REGULAR MEETING OF THE TOWN BOARD
OF THE TOWN OF ELLICOTTVILLE, NOVEMBER 17, 2021 at 6:00 pm
HELD AT THE TOWN HALL AND VIA CONFERENCE CALL - PUBLIC

<u>Present:</u>	Matthew McAndrew	Supervisor
	Greg Fitzpatrick	Councilman
	Ken Hinman	Councilman
	John Zervas	Councilman
	Steve Crowley	Councilman
	Kathleen Moriarty	Attorney for Town
	Seth Pullen	Attorney for Town
	Robyn George (via phone)	Town Clerk
	Gary Palumbo	Town Planner
	Ben Slotman	Town Engineer
	Tom Scharf	Highway Superintendant
	Don Auge (via phone)	Officer in Charge

Others present: Jake Alianello, MDA, David Parker & Kathy Kellogg (via phone), press

Call meeting to order:

Supervisor McAndrew called the meeting to order at 6:00pm and led the Pledge to the Flag.

Public Hearing – Conveyance of Valley Village Rd.

The public hearing regarding the “Resolution Regarding Conveyance of Valley Village Road to Valley Village Homeowners’ Association” was opened. Ms. Moriarty pointed out that it is in the Town’s best interest to convey the road to the HOA. There was no one from the public to comment on the resolution.

Approve Minutes

- Town Board Meeting –October 20, 2021
- Special Budget Workshop Meeting– October 21, 2021
- Special Meeting and Budget Public Hearing – November 3, 2021

On motion by Mr. Zervas and second by Mr. Hinman the amended minutes of the October 20, 21 and November 3, 2021 Board meetings were:

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

Audit of Claims

- Pay Town bills on Distribution Report #11-2021

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

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

Resolved that the Town bills be paid on General Ledger Distribution Report 11-21 as follows:

001 - General Fund A:	\$225,895.31		
002 - General Fund B:	\$ 21,291.14		
		General Fund Total:	\$247,186.45
004 - Highway DB	\$151,118.05		
		Highway Fund Total:	\$151,118.05
006 - Water	\$ 35,246.41		
		<u>006 - Water Fund Total</u>	<u>\$ 35,246.41</u>
		Grand Total:	\$433,550.91

Supervisor's Reports

- Accept Supervisor's October 2021 Financial Report

On motion by Mr. Zervas and second by Mr. Crowley the Supervisor's October 2021 Financial Report was

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

- Supervisor's Meeting

Budgets and Assessment Value were discussed. Supervisor McAndrew will be chairing next month's meeting.

- Town Center Renovation – MDA Proposal

Jake Alianello presented a proposal from MDA Consulting Engineers to provide Engineering Services to the Town related to preparing plans, specifications, and to assist with bidding and construction regarding improvements to the Town Center building. They took into account the common area shared with the Cooperative extension and prevailing wage requirements. He reviewed the scope of the work and the cost of their services. Implementing a comprehensive fire alarm system for the building was discussed. The new boiler and thermostats will not be a shared expense with the Cooperative Extension. It will be necessary to keep track of the Town Engineer's time involved in the improvements to the common area so the Extension can be billed their share.

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

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

Resolved that the Town Supervisor is authorized to sign the agreement with MDA Consulting Engineers relating to improvements at the Town Center building as proposed.

Present Written Department Reports for Approval

- Clerk's, Police, Building Inspector's, Justices and Planner's Reports

There was some discussion on the number of false alarms that the Police Department has to deal with on a regular basis. The Town does have a law outlining fines, etc. Code Enforcement Officer, Kelly Fredrickson, is in charge of enforcing the law.

On **motion** by Mr. Crowley and second by Mr. Zervas the Clerk's, Police, Building Inspector's, Justices and Planners reports were:

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

Department Heads

- **OIC Auge - Police Department**

OIC Auge praised Deputy OIC Bouchard for stepping up and handling things while he was quarantined.

The Town will be receiving about \$8,000.00 from the sponsors of Fall Fest and the ½ Marathon their share of added police coverage. The County will still have to be paid for their manpower.

OIC Auge attended a meeting which outlined new mandates from the State for Police Departments. One requirement is that new hires will have to get a psychological test. It's unclear who would pay for the testing. Additionally, there is a shortage of people qualified to administer in our area.

- **Gary Palumbo – Town Planner**

Mr. Palumbo reviewed his report and the Annual Strategic Plan. The annual review of the Comprehensive Plan was discussed: He said that the Town may have to decide whether to develop a policy to regulate short-term rentals as more complaints come in. He talked about keeping Zoning all in house and updating all documents into one. Developing too many IMA's may involve too much work for a Shared Planner, he suggested coming up with a balance as the Town moves forward.

Ben Slotman – Engineering Department

Mr. Slotman reviewed his report.

-Four Flushers meeting is scheduled for November 23rd following the DWSP2 meeting.

- Water Project Plan Review – CPL is working to have revisions done and submitted by the end of the month. Depending on Health Department review and approval, bids could go out next month. Every project will be bid out separately – tanks, well house, water line, electrician and telemetry. Hopefully, the project can begin in the Spring.

- Will begin to start defining the next project so when funding becomes available the Town will be ahead of the curve. There are better opportunities for shovel ready projects.

There was a Skate Park committee meeting. Status of funding was discussed. A pre-bid meeting will be held in December but attendance is not mandatory since most skate park designers are not local. The goal is to begin construction May1st with completion by October 31st.

The status of the Elk Creek Subdivision was discussed. The contractor has completed the installation of the water and sewer. The water has passed testing and the DOH has allowed the system to be placed into service. Pavement has been installed. The Town is looking into a temporary easement from the owners to allow access to the turnaround for winter maintenance. The owner is looking for the Town to dedicate the road; however, the road is not complete. Attorney

Pullen would not recommend rushing into the dedication if it is not complete. The Town would be at risk – as soon as the Town dedicates it, it is accepting it as it is.

- **Tom Scharf – Highway Superintendent**
- Poverty Hill Road Trail Bridge

Finger Lakes Trail Conference/Foothills Trail Club is proposing placing a bridge across the ditch where the Conservation Trail crosses Poverty Hill Rd. They are asking the Town for permission. They notified the Highway Department of their intent.

- Trailer Purchase

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

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

Resolved to approve the purchase of a 83” Hydraulic Quick Tilt trailer from Troy Teitsworth, Inc. for \$7,897.50 to be paid for out of next year’s budget.

New Business

- Gary Palumbo Resignation

Mr. Palumbo has accepted another position in his hometown. He said Ellicottville has been a big part of his professional life and has appreciated his time here. He will do what he can to make the transition easier.

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

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

Resolved that the Town accept the resignation of Gary Palumbo with regrets.

- Charter Communications Contract will be discussed at next month’s regular meeting –December 15th at 6:00pm.
- Delinquent Water bills

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

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

Resolved that the Town Clerk is authorized to levy any and all water bills that are delinquent 2 quarters or more on the 2022 Town and County taxes.

Old Business

- Asbestos Removal

The asbestos removal at the Town Center is scheduled to begin Dec. 13th and be finished on the 23rd. Court will not have to be displaced.

- DRI Application

The grant awards are expected in the next couple of weeks.

- Valley Village

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

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

Resolved to close the public hearing on the “Resolution Regarding Conveyance of Valley Village Road to Valley Village Homeowners’ Association”.

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

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

Resolved that the Valley Village Road Conveyance to the Valley Village HOA will not result in any significant adverse environmental impacts as outlined in the Short Environmental Assessment Form, Parts 1, 2 and 3.

RESOLUTION REGARDING CONVEYANCE OF VALLEY VILLAGE ROAD TO VALLEY VILLAGE HOMEOWNERS’ ASSOCIATION

At the regular meeting of the Town Board of Ellicottville, Cattaraugus County, New York, was held at the Town Hall on November 17, 2021 at 6:00 p.m.

Town Board members present: Matthew J. McAndrew, Supervisor
Kenneth D. Hinman, Councilman
Steven J. Crowley, Councilman
Gregory J. Fitzpatrick, Councilman
John R. Zervas, Councilman

Supervisor McAndrew offered the following resolutions and moved their adoption:

- (1) RESOLUTION OF THE TOWN OF ELLICOTTVILLE, NEW YORK, ADOPTED ON NOVEMBER 17, 2021, APPROVING THE CONVEYANCE TO VALLEY VILLAGE HOMEOWNERS' ASSOCIATION OF THE TOWN'S INTEREST IN REAL PROPERTY AND IMPROVEMENTS CURRENTLY KNOWN AS VALLEY VILLAGE ROAD.

RECITALS

WHEREAS, the Town of Ellicottville (the "Town") controls and maintains real property, located off Holiday Valley Road and commonly known as (Upper) Valley Village Road ("Valley Village Road"), Ellicottville, New York; and

WHEREAS, Valley Village Road is a dead end road that serves only the residents of Valley Village Association, Inc. ("Association"), an association of townhouses;

WHEREAS, Valley Village Road becomes congested in winter months with snow accumulation, making it a liability for the Town to plow snow in and around personal vehicles of Association residents parked in the Town's right of way;

WHEREAS, Valley Village Road is unnecessary for highway purposes and causes the Town to incur unwarranted maintenance and repair costs, as well as the legal liability of plowing around vehicles parked on Valley Village Road;

WHEREAS, it costs the Town approximately \$2,000 annually to maintain Valley Village Road, including the cost of snowplowing, regular repairs and paving ("Maintenance Costs");

WHEREAS, the Maintenance Costs exceed the value of Valley Village Road, and conveying Valley Village Road to the Association will return Valley Village Road to the Town's tax roles, increasing its annual tax revenue;

WHEREAS, the Board has determined that Valley Village Road no longer adequately serves the purposes and needs of the Town; and

WHEREAS, the Town desires to convey its interest in Valley Village Road to Valley Village to avoid Maintenance Costs and legal liability; and

WHEREAS, Valley Village desires to accept the Town's conveyance of its interest in Valley Village Road; and

NOW, THEREFORE, BE IT RESOLVED by the Board as follows:

1. The Board, by a favorable vote of at least two thirds of the members of the Board, is authorized by Town Law § 64 to approve, and does hereby approve, the conveyance of its interest in Valley Village Road under the Resolution No; *see Legal Description of Valley Village Road at Schedule A.*
2. All officers and boards of the Town are hereby authorized to take such actions as they deem necessary or appropriate to carry out the intent of the above referenced resolution, including, but not limited to, execution of the following documents:
 - a. an access easement to Win-Sum over Valley Village Road;
 - b. a water line easement to the Town of Ellicottville Consolidated Water District No. 1; and
 - c. a quit claim deed to Valley Village Association, Inc. of its remaining interest in Valley Village Road.
3. The Resolution is adopted subject to a permissive referendum pursuant to Town Law §§ 64 and 220.
4. The Resolution is adopted subject to Valley Village performing their obligations under a Memorandum of Understanding, executed March 17, 2021.
5. Within 10 days after the adoption of a resolution by the Town Board, the Town Clerk shall, as set forth in Town Law § 90, post and publish a notice which shall set forth the date of the adoption of, and contain an abstract of, a resolution, concisely stating the purpose and effect thereof. Such notice shall specify that the resolution was adopted subject to a permissive referendum.
6. That, pursuant to Town Law § 91, a resolution shall not take effect until thirty days after its adoption nor until approved by the affirmative vote of a majority of the qualified electors of the Town of Ellicottville, voting

on such proposition, if within thirty days after its adoption there be filed with the Town Clerk a petition subscribed and acknowledged by electors of the town qualified to vote upon a proposition to raise and expend money, in number equal to at least five per centum of the total vote cast for governor in the Town of Ellicottville at the last general election held for the election of state officers, but which shall not be less than twenty five persons, protesting against such resolution and requesting that it be submitted to the qualified electors of the Town for their approval or disapproval. If such petition be so filed not more than seventy five days nor less than sixty days prior to a biennial Town election, a proposition for the approval of such resolution shall be submitted at such biennial Town election, a proposition for the approval of such resolution shall be submitted at such biennial Town election. If a petition be so filed at any other time, a proposition for the approval of such resolution shall be submitted at a special Town election to be held not less than sixty nor more than seventy five days after the filing of such petition. The petition may be made upon separate sheets and the signatures to each sheet shall be authenticated in the manner provided by the election law for the authentication of nominating petitions. The several sheets so signed and authenticated when fastened together and offered for filing shall be deemed to constitute one petition. If, within five days after the filing of such petition, a written objection thereto be filed with the Town Clerk, and a verified petition setting forth the objections be presented by the person so filing such objections to the Supreme Court or any justice thereof of the judicial district within which the Town of Ellicottville is located, such court or justice within twenty days shall determine any question arising under and make such order as justice may require.

WATERLINE EASEMENT

THIS WATER LINE EASEMENT is made by and between **TOWN OF ELLICOTTVILLE**, a municipal corporation having offices at 1 West Washington Street, Ellicottville, New York 14731 (“Grantor”) and **TOWN OF ELLICOTTVILLE CONSOLIDATED WATER DISTRICT No. 1**, a municipal improvement district of the Town of Ellicottville, Cattaraugus County, New York, with offices at 1 West Washington Street, Ellicottville, New York 14731 (“Grantee”).

WITNESSETH:

In consideration of one Dollar (\$1.00), and no more, lawful money of the United States paid by the Grantee, the receipt of which is acknowledged, Grantor, hereby grants,

conveys and releases unto Grantee, its successors and assigns forever the following easements over certain real property located in the Town of Ellicottville, County of Cattaraugus:

SEE ATTACHED LEGAL DESCRIPTION AT SCHEDULE A

All water lines, consisting of all sub-surface water pipes, valves, fittings, hydrants, blow-off assemblies and shut off valves, and any other appurtenant equipment relating to the water system owned by the Grantee (the “Water System”), which Water System is now or hereafter located within the easements, also granted herein;

ALSO GRANTING permanent, non-exclusive easements and rights-of-way, over and under Grantor’s real property, with the right of ingress and egress for the purpose of altering, maintaining, constructing, reconstructing, replacing, removing, repairing, using, and operating the Water System, as said easements and rights-of-way are bounded and described as follows:

SUBJECT TO easements, leases, rights of way and restrictions of record that may validly affect the above-described parcel.

TO HAVE AND TO HOLD said easement unto the Grantee, its successors and assigns forever, under the following terms and conditions:

Grantee shall have the right to disrupt pavement within the Easement Area, if necessary, to access the Water System and shall restore the disrupted area to the condition it was in immediately prior to disruption.

Grantee shall have the further right, from time to time, to cut down and clear away any trees, brush or other landscaping, now or afterward located on the Easement Area which, in the opinion of Grantee, may be a hazard to the Water System installed by reason of invasive roots, or otherwise obstructing the operation and use of the Water System as intended, provided, however, that Grantee shall, within a reasonable time, remove all tops, roots, and refuse wood from the property.

Grantee shall also have the right to mark the location of the pipe lines or equipment by suitable markers, provided that such markers, when set in the ground, shall not interfere with any reasonable use Grantor shall make of the Easement Area surface.

The easement herein granted shall at all times be deemed to be and shall be a continuing covenant running with the Grantor’s land and shall inure to and be binding upon the successors, legal representatives, and assigns of the parties named in this Water Line Easement.

EASEMENT

THIS EASEMENT is made, by and between **THE TOWN OF ELLICOTTVILLE**, a municipal corporation having a principal place of business at 1 W. Washington Street, PO Box 600, Ellicottville, New York 14731 (as “Grantor”) and **WIN-SUM SKI CORP.**, a domestic corporation having a principal place of business on Holiday Valley Road, PO Box 370, Ellicottville, New York 14731 (“Grantee”).

WITNESSETH:

In consideration of one Dollar (\$1.00), and no more, lawful money of the United States paid by the Grantee, the receipt of which is acknowledged, Grantor, hereby grants, conveys and releases unto Grantee, its successors and assigns forever this Easement over the following real property owned by Grantors:

SEE ATTACHED SCHEDULE A

The Easement shall be a permanent, non-exclusive easement and right-of-way, over and under real property owned in fee, possessed or otherwise controlled by Grantor, for the purpose of ingress and egress by Grantee to access real and personal property owned by Grantee, including two existing water wells located at the southeasterly terminus of Valley Village Road, as shown on Cover Map 1700, as recorded in the Cattaraugus County Clerk’s Office in February, 1978, and more fully described at Schedule A (“Easement Area”).

SUBJECT TO other easements, leases, rights of way and restrictions of record that QUIT CLAIM DEED

This indenture, made

Between

The Town of Ellicottville Consolidated Water District No. 1, a municipal corporation, having an address of 1 West Washington Street, PO Box 600, Ellicottville, New York 14731,

party of the first

part, and

Valley Village Association, Inc., a domestic corporation, having a principal place of business on Valley Village Road, PO Box 1046, Ellicottville, New York 14731,

party of the second

part, and

Witnesseth, that the party of the first part, in consideration of ---- --One and No More-----(\$1.00 & No More) lawful money of the United States, paid by the party of the second part, does hereby grant, release and quitclaim

unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

SEE LEGAL DESCRIPTION ATTACHED AT SCHEDULE A

The purpose of this deed is to convey and all of Grantor's remaining interest in the right of way now or formerly known as (Upper) Valley Village Road, as described at Schedule A.

SUBJECT TO easements, leases, rights of way and restrictions of record that may validly affect the above-described parcel.

Together with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

To have and to hold the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

And, the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

In Witness Whereof, the party of the first part has duly executed this deed the day and year first above written.

may validly affect the above-described parcel.

RESOLUTION

MOVED BY: Greg Fitzpatrick

SECONDED BY: Steve Crowley

Resolution was duly put to a vote on a roll call, which resulted as follows:

AYE: Matt McAndrew	Town Supervisor
Steve Crowley	Councilman
Ken Hinman	Councilman
Greg Fitzpatrick	Councilman
John Zerfas	Councilman

NO: 0

The Resolution was duly adopted.

SCHEDULE A

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Ellicottville, County of Cattaraugus, State of New York, being part of Lot 42, Town 4, Range 6 further bounded and described as follows:

COMMENCING at the intersection of the centerlines of Holiday Valley Road and US Route 219; thence N 89° 59' 03" W, along the centerline of Holiday Valley Road, a measured distance of 3,123.83 feet to a monument; thence N 84° 52' 03" W, continuing along the centerline of Holiday Valley Road, a measured distance of 815.84 feet to a monument; thence N 76° 23' 03" W, continuing along the centerline of Holiday Valley Road, a measured distance of 166.98 feet; thence southerly, at an interior angle of 90° 00' 00", to the south bound of Holiday Valley Road (a 49.5' ROW), the true point of beginning;

Thence easterly, along the south bound of Holiday Valley Road, approximately 30.00 feet to its intersection with the east bound of Valley Village Road (a 60.00' ROW), said point being the northeasterly most point of Valley Village Road;

Thence S 13° 36' 57" W a measured distance of 25.40 feet;
Thence, along a curve to the southeast, having a radius of 100.00 feet and an arch length of 137.30 feet;

Thence S 65° 03' 00" E a measured distance of 210.02;
Thence S 58° 40' 24" E a measured distance of 158.85 feet;
Thence S 47° 43' 48" E a measured distance of 154.33 feet;
Thence N 42° 16' 12" E a measured distance of 25.00 feet;
Thence S 47° 43' 48" E a measured distance of 50.00 feet;
Thence S 42° 16' 12" W a measured distance of 55.00 feet;
Thence S 23° 09' 19" W a measured distance of 50.00 feet;
Thence N 66° 50' 41" W a measured distance of 54.89 feet;
Thence N 23° 09' 19" E a measured distance of 37.27 feet;
Thence N 47° 43' 48" W a measured distance of 150.90 feet;
Thence N 58° 40' 24" W a measured distance of 147.31 feet;
Thence N 65° 03' 00" W a measured distance of 206.68 feet;

Thence, along a curve to the northwest, having a radius of 160.00 feet and an arch length of 219.68 feet;

Thence N 13° 36' 57" E a measured distance of 25.40 feet, to the point of beginning, as shown on Cover Map No. 1700 of the Valley Village Subdivision, Section One, bearing Freeman & Freeman Land Surveyors' Job No. 77-2844-S, as recorded in the Cattaraugus County Clerk's Office in February, 1978.

EXCEPTING THEREFROM that tract or parcel of land conveyed to Win-Sum Ski Corp., as recorded in the Cattaraugus County Clerk's Office on October 9, 2015 under Instrument No. 245306-001.

The Easement between the Town and Win-Sum Ski Corp., Waterline Easement and Quit Claim Deed are subject to the documents being signed and all parties meeting their obligations under the memorandum.

- Quakenbush Update

The final paperwork is being drawn up. Ms. Moriarty is working on the language for the culvert maintenance easement. The town will not be responsible for replacing the culvert. For plowing and road maintenance, the length of the turnaround will be verified with the surveyor.

- EVGV Trail

The chicken BBQ raised \$900.00. MDA Engineering is working on design. The Village is giving input moving forward with the design alignment.

- Pinetree Lighting

Mr. Slotman is waiting to hear from National Grid. Mr. Pullen has done some research regarding setting up lighting districts. A cost benefit evaluation may

need to be done and public safety considered. In the case of new developments it needs to be determined who would pay, the developer or the Town.

- Noise Law

Town Attorney, Mr. Pullen, is working with the Village Attorney to align the Noise laws to simplify their enforcement by the Police.

Adjournment

Motion by Mr. Hinman, seconded by Mr. Zerfas to adjourn the meeting at 8:45pm. 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 November, 2021, approved by said Board on the 15th day of December, 2021.

Robyn A. George, Town Clerk