

MINUTES OF THE  
REGULAR MEETING OF THE TOWN BOARD  
OF THE TOWN OF ELLICOTTVILLE JANUARY 15, 2020 at 6:00 pm  
ELLCOTTVILLE TOWN HALL

<b><u>Present:</u></b>	Matthew McAndrew	Supervisor
	Ken Hinman	Councilman
	Greg Fitzpatrick	Councilman
	Steve Crowley	Councilman
	John Zerfas	Councilman
	Niles Pierson	Town Engineer
	Tom Scharf	Highway Superintendent
	Kathleen Moriarty	Attorney for Town
	Robyn George	Town Clerk
	Gary Palumbo	Town Planner
	Harry Weissman	Assessor

**Others present:** John Thomas and Caitlin Croft - press, Sharon Mathe, Brian Noble

**Call meeting to order:**

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

**Public Hearing**

The Supervisor opened the public hearing on Local Law No. 1 permitting the Town of Ellicottville to Opt Out of Tax Exemption Law RPTL S.487 Pertaining to Solar, Wind and Other Energy Systems

Motion by Mr. Zerfas, second by Mr. Fitzpatrick to close the public hearing. All Ayes. Carried.

On Motion by Mr. Fitzpatrick and seconded by Mr. Zerfas the following was presented:

**RESOLUTION AUTHORIZING TOWN BOARD OF ELLICOTTVILLE TO “OPT OUT” OF RPTL §487**

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**WHEREAS**, the Town of Ellicottville (“Town”) Town Board (“Board”) deems it necessary, advisable and in the best interests of the Town to “opt out” of RPTL § 487 by enacting a local law entitled "A Local Law Permitting the Town

of Ellicottville to Opt Out of Tax Exemption Law RPTL s.487 Pertaining to Solar, Wind and Other Energy Systems”;

**WHEREAS**, Councilor Fitzpatrick introduced Local Law No. 1 of the Year 2020 entitled “A Local Law Permitting the Town of Ellicottville to Opt Out of Tax Exemption Law RPTL s.487 Pertaining to Solar, Wind and Other Energy Systems” and the motion was seconded by Councilor Zerfas

**WHEREAS**, the New York State Legislature passed RPTL s.487, a law which exempts from taxation certain enumerated and specified solar, wind and farm waste energy system;

**WHEREAS**, Chapter 336 of the Laws of 2017 expanded the tax exemption permitted by RPTL s.487 to include certain enumerated systems such as micro-hydroelectric systems and electric energy storage systems, all as are more fully enumerated in said legislation;

**WHEREAS**, subsection 8(a) of RPTL s.487 permits a Town by local law to provide that no exemption under that section shall be applicable within its jurisdiction with respect to any energy system which began construction subsequent to the effective date of such local law;

**WHEREAS**, Local Law No. 1 of the year 2020 was introduced and a public hearing was held on January 15, 2020 to discuss and consider for enactment as Local Law pursuant to the provisions of the Municipal Home Rule Law;

**WHEREAS**, Volume 6 N.Y.C.R.R., Sections 617.3 and 617 of the Regulations relating to Article 8 of the New York Environmental Conservation Law of New York (SEQRA), requires that as early as possible after submission of a completed application, an involved agency shall make a determination whether a given action is subject to the aforementioned law;

**WHEREAS**, no other agency has the legal authority or jurisdiction to approve or directly undertake the enactment of a local law in the Town of Ellicottville, such that there are no other involved agencies within the meaning of the SEQRA with respect to the proposed enactment of said proposed Local Law, with the result that the Town Board shall act as lead agency to this matter;

**WHEREAS**, the Town Board conducted its SEQRA review on January 15, 2020 with the determination of a negative declaration such that the Board determined that the adoption of Local Law No. 1 will have no negative environmental impacts.

**NOW, THEREFORE**, be it resolved that the Town Board authorizes and directs the Town Supervisor and the Town Clerk, or their agents, to take all steps

necessary to enact Local Law 1 of 2020 as follows:

**TOWN OF ELLICOTTVILLE  
LOCAL LAW NO. 1 OF THE YEAR 2020**

**A LOCAL LAW PERMITTING THE TOWN OF ELLICOTTVILLE TO OPT OUT  
OF TAX EXEMPTION LAW RPTL S.487 PERTAINING TO SOLAR, WIND AND  
OTHER ENERGY SYSTEMS**

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Be it enacted by the Town Board of the Town of Ellicottville as follows;

**SECTION 1. LEGISLATIVE PURPOSE AND INTENT**

The New York State Legislature passed RPTL s.487 which exempts from taxation certain Solar, Wind and Farm Waste energy systems. Thereafter, said legislation was amended by Chapter 336 of the Laws of 2017 to expand the tax exemption to include additional energy systems such as micro-hydroelectric energy systems and electric energy storage systems, all as are more fully stated in said legislation.

While the Town Board of the Town of Ellicottville desires to encourage residents and businesses to utilize these modern and alternative forms of energy systems, the Board similarly does not desire to undermine or adversely affect the tax revenues that may result from increased assessments as a result of these improvements.

**SECTION 2. AUTHORITY**

RPTL s.487(8)(2) states that a Town by local law may provide that no exemption under the said legislation shall be applicable within its jurisdiction with respect to any energy system covered by said legislation which began construction upon the effective date of the local law.

**SECTION 3. ENACTMENT**

The Town of Ellicottville by way of this Local Law does “opt out” of the provisions of RPTL s.487, including the amendment and/or expansion thereof provided by Chapter 336 of the Laws of 2017, such that no tax exemption shall be applicable within the Town of Ellicottville with respect to any of the following:

1. Solar energy system;
2. Wind energy system;
3. Farm waste energy system;
4. Micro-hydroelectric energy system;

5. Fuel cell electric generating systems;
6. Micro-combined heat and power generating system;
7. Electric energy storage systems;
8. Any other energy system intended to be covered by or apply to RPTL s.487 or by Chapter 336 of the Laws of 2017 or any amendment, alteration or expansion thereto;

provided the construction of the above energy system began on or after the effective date of this law.

**SECTION 4. SEVERABILITY**

If the provisions of any section, subsection, paragraph, sentence, subdivision, clause, phrase or provision of this Local Law shall be, for an reason, held or adjudged invalid or unconstitutional by a court of competent jurisdiction, such order or judgment shall not affect or invalidate the validity and enforceability of the remainder of any section, subsection, paragraph, sentence, subdivision, clause, phrase or provision of this Local Law.

**SECTION 5. EFFECTIVE DATE**

This Local Law shall be effective upon filing with the office of the Secretary of State.

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 foregoing resolution was thereupon declared duly adopted.

- SEQR for Local Law No. 1

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

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

Resolved that the enacting of Local Law No. 1 - 2020 opting out of Tax Exemption Law RPTL S.487 will not result in any significant adverse environment impacts, therefore a Negative Declaration of Significance was made.

## **Harry Weissman - Assessor**

- 485-B Exemption

RP-485-b authorizes a partial exemption from real property taxation for commercial, business or industrial property constructed, altered, installed or improved. It is an exemption for the increase in assessment which is added for improvements which cost at least \$10,000. It starts as a 50% decrease in assessment added for the improvement and is reduced by 5% a year for the next 9 years. Assessor Weissman proposed that the Town opt out of this exemption. He says that it looks like a complicated exemption to administer and would not apply in Ellicottville very often since the Town seldom raises assessments for commercial property improvements. He thinks it's more appropriate for municipalities who want to encourage development of under-utilized commercial properties which do not really exist in Ellicottville.

On motion by Mr. Crowley and second by Mr. Hinman the following resolution was accepted:

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

Resolved that the Town Board will hold a public hearing at the Town Hall in the Town of Ellicottville, NY, on the 19th day of February 19, 2020 at 6:00pm to hear all interested persons for or against the adoption of proposed Local Law No. 2 - 2020 providing that the Exemption set forth in Section 485-b of the New York State Real Property Tax Law shall not be applicable within the Town of Ellicottville

- Level of Assessment - 100% for the 2020 tax roll

### **Approve Minutes**

- Town Board Meeting - December 18, 2019
- Organizational Meeting - January 4, 2020

On motion by Mr. Zervas and second by Mr. Fitzpatrick the amended minutes of the Board meetings listed above were

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

### **Audit of Claims**

- Pay Town bills on Distribution Report #01-20

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

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

**Resolved** that the Town bills be paid on General Ledger Distribution Report 01-20 as follows:

001 - General Fund A:	\$ 46,979.67		
002 - General Fund B:	\$ 16,240.13		
		General Fund Total:	\$ 63,219.80
004 - Highway DB	\$ 388,169.50		
		Highway Fund Total:	\$ 38,169.50
006 - Water	\$ 35,449.33		
		006 - Water Fund Total	\$ 35,449.33
		Grand Total:	\$136,838.63

### **Supervisor's Reports**

- Supervisor's Report

**On motion** by Mr. Crowley and second by Mr. Hinman the Supervisor's December 2019 Financial Report was

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

- Grant Meeting - 12/27/19

Projects discussed were the Skate Park, Storage for Historical Archives, Street, Road and structure improvements.

- 2015 SAM Flood Recovery Grant

The \$774,018 grant is under final review.

- Solar Zoning Amendment - Gary Palumbo

The Planning Board, John Zervas, Cindy Dayton and Gary Palumbo reviewed the Solar Zoning Amendment and made some changes, taking into account the public and Town Board suggestions. Definitions were added and Land Use Tables were clarified to better protect the Water/Sewer districts. A section was added requiring Planning Board review for changes to output, footprint, height of

solar panels and other modifications. Setback requirements were increased as was minimum lot size. Re-vegetation and avoidance of steep slopes were addressed, as well as fencing. Solar Farms will be required to have a Visual Impact Assessment. Inspection fees were added. The changes also give the Town negotiating power for PILOT's.

Cory Wiktor, Director of the Catt. Co. IDA, has reviewed the zoning amendment and says it is well put together. He will look for an example of a Host Community Agreement.

Some discussion followed as to whether or not the setbacks were enough. Also, the Town needs to come up with a fee schedule. The Town Planner, Engineer and CEO will work on creating a draft fee schedule and give it to the Board to review.

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

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

Resolved that the Town Board hold a special workshop meeting on January 29th to discuss the fee schedule for solar energy installations.

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

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

Resolved that the Town Board set a public hearing on Local Law No.3 - 2020 entitled "Zoning Amendment for the Regulation of Solar Energy Systems" for Wednesday, February 19, 2020 at 6:00pm at the Town Hall.

- Mike Guercio

The Board acknowledged Mike Guercio for his 30+ years of service to the Town Planning and Zoning Boards and his service to the community as Fire Commissioner.

- Justice Court Letter

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

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

Resolved that the Town Board acknowledge that they are in receipt of the letter from the Town Judges informing them that the Court's records and docket are available to be presented for audit.

**Present Written Department Reports for Approval**

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

On **motion** by Mr. Hinman and second by Mr. Fitzpatrick the Clerk's Report, Justice Report, Building Inspectors Report, Planners and the Police Report were:

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

**Department Heads.**

**Don Auge - Police Department - Absent**

**Niles Pierson - Engineering Department Report**

- Monthly Report  
    - Town Hall HVAC

MEP engineering firms are currently being consulted regarding the HVAC design for the Town Center building. Design will be completed in 2020. Engineering firms contacted include Clark Patterson Lee and Wendel.

- Extension of Quackenbush Road Length

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

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

TOWN OF ELLICOTTVILLE BOARD RESOLUTION #01-2020

**EXTENSION OF QUACKENBUSH RD. LENGTH FOR NYSDOT LOCAL ROAD INVENTORY**

**WHEREAS**, the New York State Department of Transportation maintains a Local Highway Inventory that is intended to list all local highways within New York State municipalities; and



**WHEREAS**, the Town Engineer and the Town Highway Superintendent completed a detailed review of the roads owned and maintained by the Town of Ellicottville and compared it to the most recent Local Highway Inventory provided by the State; and

**WHEREAS**, this comparison showed that the current length of Quackenbush Road as inventoried by the State is 0.27 miles; and

**WHEREAS**, the Town of Ellicottville currently owns and maintains a 0.36 mile length of Quackenbush Road, therefore be it

**RESOLVED**, that the New York State Department of Transportation amend their Local Highway Inventory for the Town of Ellicottville to include the full 0.36 mile length of Quackenbush Road currently being maintained by the Town of Ellicottville.

- Properties with Private Wells

Mr. Pierson said there are 39 properties that have municipal water available to them but are not hooked up. According to the Town's Water Regulations, they are required to be hooked up to the system. In the past, the Town did recuperate some revenue from these properties because there was a water district tax on them. This tax no longer exists. Mr. Pierson has proposed that these properties be allowed to continue to use their private wells but be charged the minimum usage fee per quarter. Because they are within the district, they do have the benefit of a improved water district and fire protection.

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

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

Resolved that the properties that have access to the Town Water System but are not connected be allowed to remain on their private wells, but be required to pay the minimum water rate per quarter.

- Town Water Truck

The use of the Town Water Truck for plowing Village Streets was discussed. The Town Board would like to see them not use the Town truck for plowing in the Village or keep track of the hours that it is used for that purpose so the Town can bill the Village for its use.

## **Tom Scharf - Highway Department**

- Donlen Dr.

Mr. Scharf says that the turn-around at the end of Donlen Dr. has become a problem for a home owner. Vehicles end up using his driveway while turning and cause a lot of damage to it. It will be looked into further.

- Agreement to spend Town Highway Funds

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

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

Resolved that the Town Board authorize the 2020 Agreement to Spend Highway Funds as presented.

## **New Business**

- Accept Elizabeth Ensell's Resignation

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

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

Resolved that the Town accept the resignation of Elizabeth Ensell as Town Prosecutor effective January 31, 2020.

- Accept Justin Dineen's Resignation

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

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

Resolved that the Town accept Justin Dineen's resignation with regrets.

The Clerk is authorized to advertise for applicants to fill his position.

Once the new Town Center Manager is hired, a meeting will be held with the Co-operative Extension, Greg Cappelli and Town representatives so everyone has an understanding of the IMA's involved in the use of the building.

- HomeCare & Hospice Annual Bouquet Sale

The Town and Village Clerks are selling Bouquets to benefit HomeCare and Hospice. Orders must be in by February 4th and will be delivered March 3rd. The Clerks are urging everyone to support the cause.

### **Old Business**

- 28 Parkside - flagged every 50'
- EVGV Trail - donations are coming in
- GOBike Request

EDPT is collaborating with GOBike to complete a feasibility study for building a trail system in Cattaraugus County. GOBike is asking each municipality to contribute \$2500 towards the project. Cattaraugus County will match those contributions. Supporting this project could make it easier for the EVGV Trail to qualify for grants and the trails may someday connect to the Ellicottville Trail.

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

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

Resolved that the Town of Ellicottville show their support for building trail systems by contributing \$2,500.00 to the Cattaraugus County Trail Feasibility Study.

- Surplus Property Resolution

The County has surplus property that could benefit the EVGV Trail but by law cannot donate the property to a non-profit organization, whereas the Town can.

### **RESOLUTION TO DONATE SURPLUS PROPERTY WITH NO MARKET VALUE**

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Supervisor McAndrew offered the following resolution and moved its adoption:

RESOLUTION NUMBER 2-2020 OF THE TOWN OF ELLICOTTVILLE, NEW YORK, ADOPTED ON JANUARY 15, 2020, APPROVING THE DONATION OF SURPLUS MATERIALS, HAVING NO MARKET VALUE, TO THE ELLICOTTVILLE-GREAT VALLEY RECREATIONAL TRAIL, INC.

RECITALS

WHEREAS, the Town Board of Ellicottville (the "Board") has determined that the Town of Ellicottville (the "Town") is in possession of certain surplus construction materials ("Materials"), having been donated to the Town by Cattaraugus County; and

WHEREAS, the Ellicottville-Great Valley Recreational Trail, Inc. (the "Trail") is a duly formed domestic not-for-profit corporation providing a public service to the residents of the Town by installing a recreational trail system; and

WHEREAS, the Trail would benefit in their mission to serve the Town by acquiring the Materials at no cost; and

WHEREAS, the Town desires to donate the Materials to the Trail at no cost;

WHEREAS, the Town has ascertained from the County that there are no restrictions on the Town's use or donation of the Materials;

NOW, THEREFORE, BE IT RESOLVED by the Town Board to contract with the Trail for the donation of the Materials to the Trail in consideration of furthering its public service to the Town in installing a recreational trail throughout the Town.

MOVED BY: Greg Fitzpatrick

SECONDED BY: John Zerfas

The question of adoption of the foregoing resolution was duly put to a vote on a roll call, which resulted as follows:

AYE: 5

NO: 0

The resolution was thereupon duly adopted.

Supervisor McAndrew is authorized to sign the Contract for the Donation of Surplus Property.

- EPOA Agreement - not yet signed by the Police Officers
- Planning Board Member - position still available
- Meeting with Valley Village on Friday, January 17th

### **Correspondence**

The Ellicottville/Great Valley Senior sent a letter to the Town Board thanking them for their contribution which helps to make their trips possible.

### **Attorney/Client Privilege**

- **Adjournment**

Motion by Mr. Hinman and second by Mr. Crowley to adjourn the meeting at 8:20pm. 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 15th day of January, 2020, approved by said Board on the 19th day of February, 2020.

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Robyn A. George, Town Clerk