

MINUTES OF THE  
REGULAR MEETING OF THE TOWN BOARD  
OF THE TOWN OF ELLICOTTVILLE OCTOBER 16, 2019 at 6:00 pm  
ELLICOTTVILLE TOWN HALL

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

**Others present:** John Thomas and Caitlin Croft - press, Dan Brown and Chris Schena - Town of Great Valley, Bob Miller - ECS

**Call meeting to order:**

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

**Privilege of the Floor**

- Gary Palumbo - Solar Amendment

Mr. Palumbo summarized the Proposed Zoning Amendment regulating Solar Farms:

Key features of the proposed solar regulations include:

- Defining Solar Energy Systems in three categories:
  - Tier 1 -Small-Scale: Roof-mounted (residential or commercial buildings) with less than 25 kW capacity that use the electricity primarily for onsite consumption.
  - Tier 2 -Small-scale: Ground-mounted systems for residential or commercial buildings, also less than 25 kW capacity and primarily for onsite consumption.
  - Tier 3 - Utility-scale or Solar Farms: Produce electricity primarily for off-site consumption or sale and have the capacity of less than 25 MW of energy.(any solar energy system that generates >25 MW is regulated by the NYS PSC.

- Establish Intent and Purpose: The Town has determined that comprehensive regulations regarding the development of solar energy

systems are necessary to protect the interests of the Town. These regulations are intended to ensure that development of such systems will have minimal impact on neighboring properties and to protect the health, safety, and welfare of residents of the Town.

- Tier 1 and 2 systems are permitted with the Unified Solar Permit adopted in 2017 and issued by the Code Enforcement Officer.
- Tier 1 and Tier 2 small-scale systems are allowed in all zoning districts as Permitted or with Special Use Permits.
- Tier 3 solar farms are permitted only in the AR District and in the LD District (outside the water and sewer districts) and require Site Plan Review and Special Use Permits from the Planning Board.
- Total height of top solar panels on pitched roofs is the same as the maximum height allowed in the district. Solar panels must be parallel to the roof.
- On Flat roofs solar panels must be no higher than 36 inches above roof and set back at least 6' from edge of the roof.
- Tier 2 ground-mounted solar panels can be no higher than 10' in the C, LD, MD and HD Districts and or 15' in the A-R, GC or I. Districts.
- Applications for Tier 3 solar farms shall document how the proposed system will (meet approval criteria):
  - Minimize and mitigate potential impacts of the solar energy system on surrounding residential land uses and protect the general rural character of the Town.
  - Minimize and mitigate the potential impacts of solar energy systems on the Town's environmental resources such as: important agricultural lands, woodlands, wetlands/streams, and other protected resources.
  - Show how the solar energy system is consistent with the Comprehensive Plan.
- Tier 3 solar farms have more rigorous application requirements and approval criteria:
  - Minimum 5-acre site, 500' lot width, and 100-foot front, side and rear setbacks.
  - The layout shall minimize clearing, avoid re-grading and avoid cut and fill.
  - Farmland soils must be re-planted with native perennial vegetation.
  - Utility lines shall be placed underground.

- Layout must follow natural contours with access roads to follow edges of existing agricultural fields.
- Signage (6 sf) is limited to what's required by electric code.
- Minimal fencing around buildings and solar arrays.
- All solar panels shall have anti-reflective coating(s) to minimize glare.
- Solar energy systems shall not be lit except to provide minimal lighting required for safety and operational purposes.
- Tree-cutting is limited to 10% of the property or lease area.
- Landscaping is limited to plantings - for visual screening and buffers, but without berms or other landscaping that requires re-grading.
- Storage batteries must be placed in a secure container or enclosure meeting the requirements of the New York State Uniform Fire Prevention and Building Code.
- Decommissioning Plans will be required, along with a Soil Decompaction Plan (for agricultural sites) and security (bond) to fund restoration.
- A bond or other form of security in an amount sufficient to ensure the faithful performance of the removal of the solar energy system (decommissioning) and the restoration of the site shall be required.
- Town Board has authority to set review fees for planning, engineering and legal reviews.  
Town Board has authority to enter into a Host Agreement with developer

Discussion followed on the enforcement of decommissioning and requiring companies to provide a Bond to the Town. There was a general consensus that the Town should allow smaller solar farms so the Town still has some control. The larger farms would get permission from the State. Mr. Palumbo suggested that the Town set fees as soon as possible if they approve the amendment.

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 set a public hearing on Local Law No.3 entitled "Zoning Amendment for the Regulation of Solar Energy Systems" for Wednesday, November 20, 2019 at 6:00pm at the Town Hall.

Mr. Palumbo will begin the SEQR Coordinated Review and send referrals to the County Planning Board and surrounding Towns and Villages.

**Approve Minutes**

- Town Board Meetings - September 18, Sept. 23, Sept. 25, October 4 and Oct. 15, 2019

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

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

**Audit of Claims**

- Pay Town bills on Distribution Report #09-19

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

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

**Resolved** that the Town bills be paid on General Ledger Distribution Report 08-19 as follows:

001 - General Fund A:	\$ 66,283.48		
002 - General Fund B:	\$ 4,944.68		
		General Fund Total:	\$ 71,228.16
003 - Highway DA	\$ 571.00		
004 - Highway DB	\$ 60,317.18		
		Highway Fund Total:	\$ 60,888.18
006 - Water	\$ 39,220.68		
		006 - Water Fund Total	<u>\$ 39,220.68</u>
		Grand Total:	\$171,337.02

**Supervisor's Reports**

- Supervisor's Report

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

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

Nays 0

- Supervisor's Meeting

NYS Class Financial was discussed.

- Set Budget Public Hearing

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 hold a public hearing on the 2020 Preliminary Budget on November 7, 2019 at 4pm at the Town Hall.

- 2018 Fiscal Stress Ratings

The Town fell into the no designation range for Fiscal Stress. It had a fiscal rating of 9.6 within the 0 - 44.9 range and a 16.7 environmental stress rating within the 0 - 29.9 range.

### **Present Written Department Reports for Approval**

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

On **motion** by Mr. Fitzpatrick and second by Mr. Zervas 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**

OIC Auge gave a brief summary of issues that occurred on Fall Fest weekend. There were the usual complaints, traffic issues and arrests. Several Uber drivers were operating without permits. However, he reported that overall the weekend went well.

#### **Niles Pierson - Engineering Department Report**

- IMA with Great Valley and Mansfield

The meeting that was held to discuss the proposed Water IMA's went well.

- SAM/DSNY - SEQR

SHPO and SEQR reviews are currently taking place for the \$250k grant for Town Hall windows and doors.

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

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

*TOWN OF ELLICOTTVILLE BOARD RESOLUTION # 2019-10-16*

**SEQRA TYPE II DETERMINATION FOR ELLICOTTVILLE TOWN/VILLAGE HALL WINDOWS AND DOORS REPLACEMENT PROJECT**

**WHEREAS**, the Town of Ellicottville Board (“Town”) has, by Resolution # 2019-10-16, determined that it is appropriate to apply for grant funding to assist in the financing of the windows and doors replacement project at the Town Hall in such; and

**WHEREAS**, pursuant to the requirements of the State Environmental Quality Review Act (“SEQRA”), the Town of Ellicottville having declared itself as lead agency must consider pursuant to criteria set forth in SEQRA the environmental implications of such projects; and

**WHEREAS**, certain actions are classified under SEQRA as Type II actions; and

**WHEREAS**, Type II actions are those actions, or classes of actions, which have been found categorically to not have significant adverse impacts on the environment, or actions that have been statutorily exempted from SEQRA review, and Type II actions do not require preparation of an Environmental Assessment Form, a negative or positive declaration, or an Environmental Impact Statement; and

**WHEREAS**, Type II actions do not require any further SEQRA review; and

**WHEREAS**, pursuant to 6 NYCRR Section 617.5 (c) (5), the following projects are determined to be Type II actions because they involve the following requiring no further review by the Town:

617.5 (c) (1) maintenance or repair involving no substantial changes in an existing structure or facility;

617.5 (c) (2) replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, unless such action meets or exceeds any of the thresholds in section 617.4;

**NOW, THEREFORE, BE IT**

**RESOLVED**, that that the projects discussed above hereby are determined to constitute SEQRA Type II Actions as defined under said regulation and do not require an environmental impact statement or any other determination or procedure;

**AND IT IS FURTHER RESOLVED**, that the Town hereby authorizes the preparation and submittal of such grant applications to the DASNY/SAM as may be deemed necessary to obtain assistance in funding the subject projects.

- PRV's

All PRV's within the water system have been replaced with new Singer valves. This project was done completely by in-house personnel saving an estimated \$200k.

- Bucket Truck

Instead of buying a bucket truck, Mr. Pierson is looking into setting up an IMA with Little Valley to have access to the use of its truck.

- Water District

Items that need to be completed prior to January 1st, 2020 include the adoption of new IMA's, adoption of new laws and adoption of new rate structure.

### **Tom Scharf - Highway Department**

- Quackenbush Road

A letter was sent on behalf of the Town to the County DPW office with regards to the existing private culvert on Quackenbush Road. The Town is asking County DPW Commissioner to issue a directive allowing the Town to remove the obstruction in question. Under Highway State Law, Article 147, the Commissioner has to determine that it is a hazard. Superintendent Scharf reported that one of the property owners is cooperating and the other was not.

### **New Business**

- Appoint Timothy Zervas to Planning Board

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

Accepted      Ayes 4 - McAndrew, Crowley, Hinman & Fitzpatrick  
                    Abstain 1 - Zervas  
                    Nays 0

Resolved that the Town appoint Timothy Zervas to fill the vacancy on the Town Planning Board.

## **Old Business**

- 28 Parkside

Attorney Moriarty went to a Board meeting of the Catt. Co. Extension Service in an effort to clarify the Town's request to deed a disputed sliver of land at Parkside Dr. to the Town. No decision was made.

- EVGV Trail

The Trail is cleared from Town Center to Tim Hortons and is ahead of schedule.

- Bryant Hill Cemetery Drainage

Mr. Pierson will draw up a plan and Mr. Scharf will get 3 quotes for the work for curbing by the cemetery.

- Quackenbush Road

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

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

Resolved that the Highway Superintendent is authorized to remove the obstruction on Quackenbush Road and charge the property owners for work, pending a directive from the County DPW Commissioner allowing him to do so.

- Valley Village Road

The Town had originally proposed to re-grade, pave and stripe Valley Village Road and turn over ownership to the HOA. The owners of Valley Village have rejected the Town's proposal. They are asking that the Town rebuild "the road to the same standard as that they would require from a private developer if they were turning the road back to the town." The Town contends that the road is more of a parking lot than anything and not subject to the same vehicular traffic as a road. The Town may have to enforce no parking on Town property and removal of dumpsters on Town property. This would significantly reduce the home owner's parking spaces. They could also insist that only Town Highway personnel are allowed to plow the area because of liability issues. The Board directed the Highway Superintendent to write a letter to the homeowners and set up another meeting with them to explain the Town's position and consequences.

- **Adjournment**



Motion by Mr. Zerfas and second by Mr. Hinman to adjourn the meeting at 7:50pm. 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 16th day of October, 2019, approved by said Board on the 20th day of November, 2019.

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Robyn A. George, Town Clerk