

**MINUTES OF THE  
REGULAR MEETING OF THE TOWN BOARD  
OF THE TOWN OF ELLICOTTVILLE  
September 16, 2015 at 6:00 pm  
ELLICOTTVILLE TOWN HALL**

<b><u>Present:</u></b>	John Burrell	Supervisor
	Ken Hinman	Councilman
	Rick Jackson	Councilman
	Steve Crowley	Councilman
	Greg Fitzpatrick	Councilman
	Robyn George	Town Clerk
	Loyd Hovey	Highway Superintendent
	Mark Alianello	Town Engineer
	Kathleen Moriarty	Attorney for Town

**Also Present:** Jann Wiswall, John Thomas, Glenda Jackson

**Call meeting to order:**

Supervisor Burrell called the meeting to order at 6:03 pm and led the Pledge to the Flag.

**Good News**

- Health Insurance

A representative from Sheridan Benefits met with the Supervisor and his Clerk regarding health insurance renewal. Blue Cross/Blue Shield and Independent Health offer coverage that is similar to the Town's current plan. The Blue Cross/Blue Shield plan is not only less expensive but offers some added benefits.

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

Accepted      Ayes 5 - Burrell, Hinman, Fitzpatrick, Crowley & Jackson  
                    Nays 0

Resolved that the Town switch insurance carriers for its full-time employees from Independent Health to Blue Cross/Blue Shield for the year 2016.

**Approve Minutes**

- Town Board Meeting –August 19, 2015

On motion by Mr. Crowley and second by Mr. Jackson the minutes of the August 19 , 2015 Board Meeting were

Accepted Ayes 5 - Burrell, Hinman, Crowley, Fitzpatrick & Jackson  
Nays 0

- Town Board Special Meeting

On motion by Mr. Jackson and second by Mr. Hinman the minutes of the August 31 , 2015 Special Board Meeting were

Accepted Ayes 5 - Burrell, Hinman, Crowley, Fitzpatrick & Jackson  
Nays 0

**Audit of Claims**

- Pay Town bills on Distribution Report #08-15

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

Accepted Ayes 5 - Burrell, Hinman, Fitzpatrick, Crowley & Jackson  
Nays 0

**Resolved** that the Town bills be paid on General Ledger Distribution *Report 08-15* as follows:

001 - General Fund A:	\$ 15,327.62	
002 - General Fund B:	\$ 1,457.28	
		General Fund Total: \$ 16,784.90
003 - Highway DA	\$ 3,844.26	
004 - Highway DB	\$ 27,010.39	
	Highway Fund Total:	\$ 30,854.65
	006 - Water Fund Total	<u>\$ 4,481.68</u>
	<b>Grand Total:</b>	<b>\$ 52,121.23</b>

**Supervisor's Reports**

- Supervisor's Report

**On motion** by Mr. Fitzpatrick and second by Mr. Crowley the Supervisor's August 2015 Financial Report was

Accepted Ayes 5 - Burrell, Hinman, Fitzpatrick, Crowley & Jackson  
Nays 0

- 2016 Budget Process

Department heads should have their budget requests in by the end of the week.

- General Insurance Renewal Meeting 9-2-15

Supervisor Burrell and Mr. Hovey met with the Town's insurance company, the Evans Agency, to discuss coverage for 2016. It was determined that there is some Highway Department equipment that needs to be added to the policy. Also, additional coverage for the booster stations is warranted.

- East Tank Bonds

The new bonds funding the East Tank project are in place and the interest rate is a low .97%. When the project is complete and the final payment is made to the contractor, JD Northrup Construction, application can be made to receive the grant money and will be used to repay the General Fund.

- Town Planner Carol Horowitz

Carol Horowitz informed Mr. Burrell that she will be retiring from her position as Town Planner effective December 31st. She made several suggestions on who the Town could contact to fill the position. Mr. Burrell will look into it.

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

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

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

Accepted Ayes 5 - Burrell, Hinman, Crowley, Fitzpatrick & Jackson  
Nays 0

### **Department Heads**

#### **Don Auge – Police Department**

- Jim Bouchard August 28th Life Saving Incident

Officer Spry wrote a letter to the Board commending the actions of Officer Bouchard upon discovering a person who was not breathing in a locked and stopped car. Bouchard was able to get into the vehicle and helped to save the occupant's life. A life saving ribbon will be ordered and presented to Officer Bouchard.

### **Loyd Hovey - Highway Department**

Mr. Hovey reported that the Sommerville Road project has been completed for the year. Work has begun on Kuhn Road.

- "Asphalt Zipper"

A machine used to mill asphalt was demonstrated to the Highway Department. Mr. Hovey was very impressed with its results. It was easy to run and efficient. The department currently leases equipment for milling work which can be quite expensive. The equipment is available for purchase on a five-year payment plan. The payments would be between \$20-\$25,000 per year. Mr. Burrell suggested that the Town may save money by buying the machine instead of leasing equipment. The possibility of purchasing the "Asphalt Zipper" will be discussed during the budget process.

- Tammie Doult Full-time Appointment

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

Accepted      Ayes 5 - Burrell, Hinman, Fitzpatrick, Crowley & Jackson  
                     Nays 0

Resolved to hire Tammie Doult as a full-time highway employee effective November 1, 2015 at an hourly pay rate of \$14.63.

- Children at Play signs

Mr. Hovey did some research on the effect of placing "Children at Play" signs up in an effort to slow traffic. Several sources agreed that these signs rarely have an effect on traffic and that they may give families a false sense of security which could be dangerous. Mr. Hovey will look into other types of advisory or cautionary signs that may be more effective.

Mr. Hovey looked into a tree complaint on Lindberg Road and determined that there were no trees in the Town's right-of-way at the location in question.

### **Mark Alianello, PE – Engineering Department**

- East Tank Project update

The East Tank project is nearing completion. The Board would like to see it finished so the Town can receive the grant reimbursement by the end of the year.

- Water supply line to Village reservoir is complete.
- Middle Zone Water Loop is in service.
- Holiville Sewer should be ready by Fall Festival weekend.
- US Rte. 219 Bridge

Planning for the bridge work is in the preliminary stages. Construction is not slated to begin before 2017. Discussion followed on the bridge's current state of disrepair.

- Holiday Valley Road

The Holiday Valley Road reconstruction is quickly progressing to an end. Final paperwork is being prepared for the old road's abandonment and the new road's legal dedication by Holiday Valley to the Town. A ribbon cutting ceremony is being planned for October 6, 2015 at Holiday Valley.

On motion by Mr. Burrell and second by Mr. Jackson the following resolution was

Accepted      Ayes 5 - Burrell, Hinman, Fitzpatrick, Crowley & Jackson  
                    Nays 0

Resolved that the Town of Ellicottville Town Board hold a special meeting on October 6, 2015 at 12:00pm at the Tamarack Club at Holiday Valley.

- Upper Road

Mr. Alianello reported that National Fuel is replacing gas line under Upper Road which will delay plans for road repair.

### **Old Business**

- Alarm Local Law

**Motion** by Mr. Jackson and second by Mr. Crowley the following be enacted

### **LOCAL LAW NO. 3 - 2015 LOCAL ALARM LAW**

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Pursuant to Mun. Home Rule Law § 10:

**BE IT ENACTED** by the Town Board of the Town of Ellicottville, New York (collectively and individually, “Town”) as follows:

*Intent and Purpose.*

This Local Law is designed to establish and regulate standards for intrusion, holdup, fire, or other emergency alarms which transmit signal (electronic, audible or otherwise) that may or may not require a police or fire department response for the purposes of investigation, action or safeguarding of property at the location from which such alarm is generated.

It is the intent and purpose of this Local Law that it shall be applicable not only to alarms installed subsequent to the passage of this act, but also to alarms already in use within the Town.

*Definitions.*

**ALARM COMPANY** – Means the business, by an individual, partnership, corporation or other entity of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, installing or monitoring an Alarm in an Alarm Site.

**ALARM** – Any mechanism, equipment or device, or system of mechanisms, equipment or devices, which is designed to protect the Alarm Site and to operate automatically or manually, to transmit an audible or visible signal, message or warning (electronic or otherwise) in any manner, including, but not limited to, to the Police Department or Fire Department.

**ALARM FEE SCHEDULE** – a separate schedule listing all fees associated with this Local Law, including, but not limited to, the Permit application fee, False Alarm fees, and appeal fees. This Alarm Fee Schedule may be amended from time to time by the Town, as necessary.

**ALARM REVIEW BOARD** – A three member committee appointed by the Town as follows: one member of the Police Department, one member of the Fire Department, and one resident of the Town of Ellicottville.

**ALARM SITE** - Means a single fixed premises or location served by an Alarm. Each tenancy, if served by a separate Alarm in a multitenant building or complex shall be considered a separate Alarm Site.

**ALARM UNIT COORDINATOR** – the Police Department, as designated by the Town to administer this Local Law and to control and review False Alarm reduction efforts.

ALARM USER – Means any person, firm, partnership, corporation or other entity which uses or is in control of any Alarm at its Alarm Site. Where an Alarm Site is a rental unit, the owner of the Alarm Site shall be deemed the Alarm User.

CANCELLATION – Is the process by which an Alarm Company verifies with the Alarm User or Occupant that a false dispatch has occurred and that there is not an existing danger at the Alarm Site requiring a response from a Responding Unit. A Cancellation only occurs if a Responding Unit is not dispatched.

FALSE ALARM – Any signal actuated through an Alarm to which a Responding Unit responds, and which signal or alarm has not been caused, actuated or sent by reason of the events for which the Alarm is designed to operate against. In other words, the Alarm requires a response from a Responding Unit, and the underlying event, i.e., intrusion, holdup, fire, other emergency, has not occurred.

FIRE DEPARTMENT – The fire department which has responsibility for the territory encompassed by the Town of Ellicottville.

NOTICE – The ticket, including fee amount, or notice of appearance administered to an Alarm User that a False Alarm has occurred at the Alarm User’s Alarm Site; the Notice will indicate the time and date of the False Alarm and the Responding Unit.

PERMIT – A permit obtained from the Town Clerk of Ellicottville, the purpose of which is to register an Alarm.

OCCUPANT – Person occupying the Alarm Site, including but not limited to the owner, renter or guest of the Alarm Site.

POLICE DEPARTMENT – The Ellicottville Police Department or its successors.

RESPONDING UNIT – The unit dispatched by the Cattaraugus County Communications Center to respond to the signal transmitted by an Alarm, including, but not limited to, the Fire Department, the Police Department and the Cattaraugus County Sheriff’s Department.

*Permit.*

Alarm Users must obtain a Permit for any Alarm.

*Application for Permit.*

An application for a Permit to install, maintain or operate an Alarm shall be filed with and supplied by the Town Clerk, together with the fee, as designated on the Alarm Fee Schedule. The application shall contain and set forth at least the following information: the name, address and telephone number of the Alarm Company that installed the Alarm and the Alarm User, together with the name, model number and serial number of the Alarm.

*Compliance.*

All presently existing and installed Alarms must be brought into compliance with the provisions of this Local Law on or before February 1, 2016.

**Article VI. Annual Permit Fee.**

The annual fee for an Alarm Permit shall be designated in the Alarm Fee Schedule. The year will run from February 1 through January 31, and permits must be renewed on or before February 1 of each year.

*Limitations.*

No Alarm shall be connected to either the Police or Fire Department except in accordance with the provisions of this Local Law.

*False Alarms.*

**The Alarm Unit Coordinator shall issue a Notice to Alarm Users for first and second false alarms; Notices shall be sent to Alarm Users by regular mail and certified mail. The Alarm Unit Coordinator shall issue a Notice, including fee amount, to Alarm Users for the third False Alarm, and all subsequent False Alarms, as set out in the Alarm Fee Schedule. Failure to pay any False Alarm fee, within (10) days of the proof of receipt of the Notice sent by certified mail of such False Alarm, shall result in a doubling of such fee.**

*Automatic Cut Off System.*

No Alarm shall be installed or maintained in any building, structure or establishment which does not contain an automatic cutoff system or feature, which automatically cuts off the source of power to the alarm after the alarm has sounded for a period of thirty minutes.

*Installation and Maintenance.*

The installation and maintenance of the Alarm permitted by this Local Law, including connections to locations designated by the Police Department or Fire Department, or any other entity designated by the Town, shall be made at no cost to the Town. The Alarm User shall be responsible for the maintenance and service of the Alarm equipment and shall be responsible for all malfunctions of such equipment. If it is necessary to change the location for such Alarm, the Town shall not be responsible for any expenses incurred in connection therewith.

*Appeals.*

10.1 An Alarm User may appeal a Notice, and any associated fees, to the Alarm Unit Coordinator of the Department issuing the Notice. Appeal forms can be obtained from the Town Clerk and must be submitted with any appeal fees, as designated in the Alarm Fee Schedule. Appeal fees will be returned to the Alarm User if the appeal is granted. The filing of an appeal with the Alarm Unit Coordinator stays the assessment of the fee until the Alarm Unit Coordinator makes a final decision.

10.2 The Alarm User shall file a written appeal to the Alarm Unit Coordinator by setting forth the reasons for the appeal within ten (10) days after receipt of the Notice.



The appeal shall be denied if the Alarm User failed to accept service, for any reason, within the ten (10) days of delivery of the certified mail Notice.

10.3 A second level of appeal is available to the Alarm Review Board (“Board”) in cases where the Alarm User is not satisfied with the decision reached at a lower level.

10.3.1. The applicant Alarm User, or the Alarm Company on behalf of the Alarm User, may appeal the decision of the Alarm Unit Coordinator to the Board by filing a written request for a review setting forth the reasons for the appeal within twenty (20) days after receipt of the notice from the Alarm Unit Coordinator.

10.3.2. The Board shall conduct a formal hearing once a month, on a date and time to be designated by the Board, or as necessary, to consider relevant evidence by any interested person(s). The Board shall make its decision on the basis of the preponderance of evidence presented at the hearing. The Board shall render a decision within thirty (30) days after the appeal hearing is held. The Board may affirm, reverse or modify the assessment of the fee. The decision of the Board is final as to administrative remedies of the Town of Ellicottville.

Filing a request for appeal shall stay the action by the Alarm Unit Coordinator suspending a registration or requiring payment of a fee, until the Board has completed the review. If a request for appeal is not made within the twenty day (20) period, then the action of the Alarm Unit Coordinator is final.

*Revocation of Permit.*

The Permit for such Alarm shall be subject to revocation as follows:

1. Failure to pay the annual permit fee as provided for in this Local Law;
2. Failure to pay fees or fines imposed by reason of False Alarms;
3. Failure to install, maintain or operate such Alarm in accordance with the terms and conditions of any permit issued pursuant to this Local Law;
  - a. The Alarm Unit Coordinator, after inspection, may give written notice to the Alarm User of failure to comply with the terms of the Permit and may provide a grace period to bring such Alarm into compliance and shall provide an opportunity for the Alarm User to be heard by the Alarm Appeals Board.

Failure to pay any fees as set out in this Local Law and its accompanying Alarm Fee Schedule subjects the Alarm User to any legal remedies available to the Town, including, but not limited to, obtaining a civil judgment against the Alarm User.

- b. The order revoking such permit shall be signed by the Alarm Unit Coordinator.

*Governmental Immunity.*

Registration of an Alarm is not intended to, nor will it, create a contract, duty or obligation, either expressed or implied, of response. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity is retained. By registering an Alarm, the Alarm User acknowledges that law enforcement response may be based on factors such as: availability of law enforcement units, priority of calls, weather conditions, traffic conditions, or emergency conditions staffing levels.

The motion was put to a roll call vote and passed.

Voting Record:

Supervisor John Burrell	AYE
Deputy Supervisor Kenneth Hinman	AYE
Councilman Steven Crowley	AYE
Councilman Gregory Fitzpatrick	AYE
Councilman Richard Jackson	AYE

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

Accepted      Ayes 5 - Burrell, Hinman, Fitzpatrick, Crowley & Jackson  
                    Nays 0

Resolved that the following Alarm fee schedule be enacted:

**LOCAL ALARM LAW  
FEE SCHEDULE**

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As amended from time to time, pursuant to Municipal Home Rule Law § 10, the Town of Ellicottville Local Alarm Law Fee Schedule is as follows:

Initial Application Fee:	\$25.00
Annual Permit Fee:	\$25.00, payable on or before February 1st
Third False Alarm Fee:	\$100.00
Fourth False Alarm Fee:	\$200.00
Fifth False Alarm Fee:	\$1,000.00

- EV/GV Recreational Trail

Mr. Hinman reported that there has not been any news on the TIGER grant. A housing development is being constructed on Parkside/Fillmore Drive. A condition of the Planning Board's approval for the development is that they include a sidewalk in their plans. Discussion followed on how the trail committee could work with the developer to make that sidewalk part of the trail.

## **Correspondence**

- NYS DOPS
- Langford Testing & Consulting

Motion by Mr. Jackson and second by Mr. Fitzpatrick to go into executive session at 8:00pm to personnel matters. All Ayes. Carried.

Motion by Mr. Crowley and second by Mr. Hinman to resume regular session at 9:24pm.

## **Adjournment**

Motion by Mr. Hinman and second by Mr. Jackson to adjourn the meeting at 9:25pm. 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 September, 2015, approved by said Board on the October 21, 2015.

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Robyn A. George, Town Clerk