

**DRAFT MINUTES OF
SPECIAL MEETING
OF THE TOWN OF ELLICOTTVILLE
TOWN BOARD HELD
October 6, 2015 at Noon
At the Tamarack Club at Holiday Valley**

Present:	John Burrell	Supervisor
	Greg Fitzpatrick	Councilman
	Rick Jackson	Councilman
	Steve Crowley	Councilman
	Ken Hinman	Councilman
	Kathleen Moriarty	Attorney for Town
	Loyd Hovey	Highway Superintendent
	Robyn George	Town Clerk

Also Present: Jennie Acklin and John Thomas, Press

Call meeting to order and pledge to flag:

Supervisor Burrell called the meeting to order at 12:10 pm and led the Pledge to the Flag.

East Tank

1. Change Order No. 5 - JD Northrup Construction

The Contractor has completed all work associated with the East Tank Project and is requesting final payment. MDA Consulting Engineers compared actual quantities installed and paid for during the project and the estimated quantities established in the original contract. Change Order No. 5 documents the total quantities to be adjusted from this comparison, which results in a net decrease in price of \$9,622.40.

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 that the Town approve Change Order No. 5, resulting in a net decrease in Contract price of \$9,622.40 and a Final Contract Price of \$1,077,419.75 and authorize the Supervisor to sign the Change Order.

2. Change Order No. 2 - MDA Consulting Engineers

Mr. Alianello presented an amendment to the Engineering Services Agreement with MDA Consulting Engineers because a number of additional tasks were added to the original construction contract. These include an increase of \$8,000.00 in Task 4, an increase of \$7,500.00 in Task 5 and an increase of \$19,000.00 in Task 6. It was pointed out that the total project costs remain within the \$1.4 million

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

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

Resolved that the Town accept Change Order No. 2 to the MDA Consulting Engineers, PLLC and authorized the Supervisor to sign the agreement.

3. Memorandum of Understanding

A Memorandum of Understanding between the Town of Ellicottville (Owner) and J.D. Northrup Construction, Inc. (Contractor) for Final Payment of the East Tank Project was presented to the Board. The purpose of the agreement is to allow the Town to formally close out the contract with JD Northrup in order to wrap up the entire East Tank Project so the Town submit the request for the grant reimbursement payment.

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

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

Resolved that the Town accept the Memorandum of Understanding between the Town of Ellicottville and JD Northrup Construction, Inc. and authorized the Supervisor to sign it. The agreement includes the following:

- JD Northrup Construction will provide the Town with a check in the amount of \$5,000.00 which the Town can use to cover the costs of the remaining work if the Contractor does not finish the work.
- JD Northrup Construction will complete all work by November 15, 2015
- If the Contractor adequately finishes the remaining Punch List items within this specified timeframe,, the Town will void and return the \$5,000.00 check to the Contractor.

4. Approve Final Payment to JD Northrup Construction

JD Northrup Construction, Inc. submitted Application for Payment #8 in the amount of \$17,193.84. MDA Consulting Engineers has reviewed and certified the Payment Application and agrees with all quantities and percentage completed figures that were submitted.

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

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

Resolved that the Town accept the work done by JD Northrup Construction on the East Tank Project as final, fixing the Final Contract Price as \$1,077,419.75 and authorizing Supervisor Burrell to sign the Final Payment Application#8 as submitted.

5. Approve all other bills for payment, Form E No. 10

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 that the following bills associated with the East Tank Project be paid:

- MDA Consulting Engineers, PLLC	\$19,901.27
- Douglas Goodfriend (Orrick)	\$ 3,505.00
- Sump Pump	\$ 389.00
- Municipal Solutions - not to exceed	\$ 4,000.00

6. Grant Reimbursement Request

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

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

Resolved that Supervisor Burrell is authorized to sign and submit the Grant Reimbursement Request to Empire State Development for the \$268,000.00 grant.

Holiday Valley Road

1. Easement from Town of Ellicottville to Water District and Sewer District for existing pipelines in the old ROW

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

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

RESOLUTION AUTHORIZING THE TOWN TO ENTER INTO AN EASEMENT AGREEMENT WITH THE TOWN OF ELLICOTTVILLE CONSOLIDATED WATER DISTRICT NO. 1

WHEREAS, the Town of Ellicottville ("Town") Town Board ("Board") deems it necessary, advisable and in the best interests of the Town to enter into an easement agreement with the Town of Ellicottville Consolidated Water District No. 1 for the purpose of construction, erecting, maintaining, operating and replacing a waterline;

NOW, THEREFORE, be it resolved that the Town Board authorizes and directs the Town Supervisor to take all steps necessary to execute the easement agreement on behalf of the Town.

2. Abandonment of the old Holiday Valley Road and Quit Claim Deed

The Highway Superintendent has signed documentation recommending that the Town abandon the old Holiday Valley Road.

RESOLUTION AUTHORIZING THE ABANDONMENT OF PARTS OF ITS TOWN HIGHWAYS

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

Accepted Ayes 4- Burrell, Hinman, Fitzpatrick & Jackson
 Abstain 1 - Crowley
 Nays 0

WHEREAS, pursuant to Town Highway Law 212-a, upon the recommendation of the Town Highway Superintendent and the consent of the Commissioner of Cattaraugus County's Department of Public Works, the Town of Ellicottville ("Town") Town Board ("Board") deems it necessary, advisable and in

the best interests of the Town to abandon part, but not all, of the town highway known as Holiday Valley Road due to relocation of said road;

WHEREAS, the abandoned parts of Holiday Valley Road will be abandoned to abutting owner Win-Sum Ski Corp., and the road after abandonment shall not be less than three rods in width;

NOW, THEREFORE, be it resolved that the Town Board authorizes and directs the Town Supervisor to execute necessary quit claim deeds or deeds of the land so abandoned and to deliver the same to the abutting owner for such consideration and upon such terms and conditions as the Town Board shall deem proper.

3. Consent for Dedication of the new Holiday Valley Road

The Highway Superintendent has signed documentation recommending that the Town dedication of the new Holiday Valley Road.

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

Accepted Ayes 4- Burrell, Hinman, Fitzpatrick & Jackson
 Abstain 1 - Crowley
 Nays 0

*In the Matter of Laying Out
Certain Property Situate in
Lots 37 and 42, Town 4, Range 6 of the
Holland Land Company's Survey, as a
Public Highway in the Town of Ellicottville,
County of Cattaraugus and State of New York*

TOWN BOARD CONSENT

Upon reading the dedication in the above-entitled matter, dated October 6, 2015, wherein the owners of lands described therein have released the same to the Town of Ellicottville and its Highway Superintendent for highway purposes; now, therefore, be it

RESOLVED, that consent be and same hereby is given to the Town Superintendent of Highways of the Town of Ellicottville, to make an order laying out the lands described in said Dedication, dated October 6, 2015, for highway purposes, in accordance with the provisions of the Highway Law and other statutes applicable thereto.

4. Acceptance of easement from Win Sum Ski Corporation for maintenance easements for the large culvert

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

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

**RESOLUTION AUTHORIZING THE TOWN TO ENTER INTO AN EASEMENT
AGREEMENT WITH WIN-SUM SKI CORP. FOR CERTAIN CULVERTS
ALONG HOLIDAY VALLEY ROAD**

WHEREAS, the Town of Ellicottville (“Town”) Town Board (“Board”) deems it necessary, advisable and in the best interests of the Town to enter into an easement agreement with Win-Sum Ski Corp. for the purpose of maintaining, altering and replacing culverts across property owned by Win-Sum Ski Corp.;

NOW, THEREFORE, be it resolved that the Town Board authorizes and directs the Town Supervisor to take all steps necessary to execute the easement agreement on behalf of the Town.

5. Acceptance of easement from Win Sum Ski Corp. for maintenance easements for Middle Zone Loop waterline

Mr. Burrell pointed out that installing the much needed Middle Zone Water Loop as part of the Holiday Valley Road project was a good deal for the Town. The Town paid for the materials, but Win Sum supplied the labor which saved the Town a lot of money.

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

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

RESOLUTION AUTHORIZING AN EASEMENT AGREEMENT BETWEEN WIN-SUM SKI CORP. AND THE TOWN OF ELLICOTTVILLE CONSOLIDATED WATER DISTRICT No. 1

WHEREAS, the Town of Ellicottville (“Town”) Town Board (“Board”) deems it necessary, advisable and in the best interests of the Town to enter into an easement agreement with Win-Sum Ski Corp. for the purpose of constructing, erecting, maintaining, operating and replacing a waterline;

NOW, THEREFORE, be it resolved that the Town Board authorizes and directs the Town Supervisor to take all steps necessary to execute the easement agreements on behalf of the Town.

6. Agreement between Win Sum Ski Corp. and the Town formalizing prescriptive utility easements within the old Holiday Valley ROW

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

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

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT TO COOPERATE IN FINALIZING UTILITY EASEMENTS UNDER ABANDONED HOLIDAY VALLEY ROAD

WHEREAS, the Town of Ellicottville ("Town") Town Board ("Board") deems it necessary, advisable and in the best interest of the Town to ensure that utility easements, which are existing but not recorded, are properly recorded;

WHEREAS, the utility easements are located under property that is to be abandoned by the Town to Win Sum Ski Corp.;

NOW, THEREFORE, be it resolved that the Town Board authorizes and directs the Town Supervisor and the Attorney for the Town to enter into an Agreement Regarding Existing Utilities with Win Sum Ski Corp.

7. Quit Claim deed for the old Lower Road

This agreement is a formality enforcing the Town's long term practice while reserving the Town's water and sewer easements.

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

Accepted Ayes 4- Burrell, Hinman, Fitzpatrick & Jackson
 Abstain 1 - Crowley
 Nays 0

RESOLUTION AUTHORIZING THE TOWN TO QUIT CLAIM ITS INTEREST IN LOWER ROAD OR CHUTE ROAD TO WIN-SUM SKI CORP.

WHEREAS, the Town of Ellicottville ("Town") Town Board ("Board") deems it necessary, advisable and in the best interests of the Town to quit claim its interest in town highways formerly known as Chute Road or Lower Road ("Road");

WHEREAS, the abandoned Road, not having been used or maintained by the Town for more than six years, will be quit claimed back to abutting owner, Win-Sum Ski Corp.;

NOW, THEREFORE, be it resolved that the Town Board authorizes and directs the Town Supervisor to execute necessary quit claim deeds or deeds relevant to the Road and to deliver the same to Win-Sum Ski Corp. for such consideration and upon such terms and conditions as the Town Board shall deem proper.

Old Business

1. Installation of new service laterals for water on Leslie Road

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 that the Town purchase and install 2 new water service laterals on Leslie Road at a cost of \$1,500.00 each at a depth of 5 feet to prevent freezing.

2. Roof over Fuel Station at Highway Facility

Mr. Hovey has been looking into the cost of installing a roof over the fuel station at the Highway Facility. He has obtained several quotes. The Board was concerned that the cost would not fit into this year's budget. Mr. Hovey was directed to bring the quotes and present options at the next Board meeting.

Adjournment

MOTION: by Mr. Hinman seconded by Mr. Fitzpatrick to adjourn the meeting at 1:15p.m. All Ayes. Carried.