

**MINUTES OF THE
REGULAR MEETING OF THE TOWN BOARD
OF THE TOWN OF ELLICOTTVILLE
January 20, 2016 at 6:00 pm
ELLCOTTVILLE TOWN HALL**

<u>Present:</u>	Mathew McAndrew	Supervisor
	Ken Hinman	Councilman
	Rick Jackson	Councilman
	Steve Crowley	Councilman
	Greg Fitzpatrick	Councilman
	Robyn George	Town Clerk
	Mark Alianello	Town Engineer
	Kathleen Moriarty	Attorney for Town
	Don Auge	Officer in Charge

Also Present: Jann Wiswall & John Thomas, Press, Glenda Jackson, Cheri Giancarlo

Call meeting to order:

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

Z

Approve Minutes

- Town Board Special Meeting - December 14, 2015
- Town Board Meeting - December 16, 2015
- Town Board Special Meeting - December 29, 2015
- Organizational Meeting - January 4, 2016

On motion by Mr. Crowley and second by Mr. Hinman the amended minutes of the December 14, 2015, December 16, 2015, December 29, 2015 and the January 4, 2016 Board Meetings were

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

Audit of Claims

- Pay Town bills on Distribution Report #01-16

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

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

Nays 0

Resolved that the Town bills be paid on General Ledger Distribution *Report 12-15* as follows:

001 - General Fund A:	\$ 32,796.43	
002 - General Fund B:	\$ 28,494.16	
		General Fund Total: \$61,290.59
003 - Highway DA	\$ 1,905.00	
004 - Highway DB	\$ 26,087.66	
		Highway Fund Total: \$27,992.66
		006 - Water Fund Total <u>\$ 2,352.79</u>
		Grand Total: \$91,636.04

Supervisor's Reports

- Supervisor's Report

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

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

- Training Seminar Review

Supervisor McAndrew attended the training seminar for government officials in Rochester, NY on January 6th through the 8th and found it very informative.

- Town Center Lease Agreements

The new lease agreements have been signed and are filed in the Clerk's office.

- Town Center Auditorium Lighting

The Town has agreed to replace the lighting in the auditorium with lights that can be dimmed. Mr. Alianello is looking into the possibility of receiving a rebate for energy efficiency for replacing the lighting. If none is available, he will work on putting the project out to bid and moving forward with the project.

- Joint Fire Commission

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

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

Resolved that the Town ratify the Fire Department's appointment of John Rogan as Fire Commissioner.

- ZBA Vacancy

There have been no volunteers to serve on the Town Zoning Board of Appeals in reply to the advertisement in the paper. Supervisor McAndrew will pursue the matter.

- NYS Police Request

Two new officers are stationed at the substation in the Town Hall. They requested that the Town provide them a new desk and chair but have since withdrawn the request. They have, however, asked that the Town allow them to use the closet in the meeting room for their lockers. Mr. Alianello pointed out that the closet is the only access to the attic. The Board decided it would not be prudent block that access.

- Highway Superintendent Job Description

A committee of Ken Hinman, Greg Fitzpatrick and Mark Alianello was formed to review and finalize the Highway Superintendent Job Description so it can be sent to Cattaraugus County Civil Service. A Special Meeting will be held on Wednesday, January 27, 2016 at 4:00pm to review and approve the description.

- Proposed Zoning Law Amendments

In 2015 the Town Board asked the Planning Board to look at several zoning issues and provide suggestions on how to address those issues. At their December 21st meeting, the Planning Board recommended draft zoning amendments and has provided them to the Town Board for review and possible adoption in order to update the law to include additional permitted land uses in appropriate land use districts.

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

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

Resolved that the Town Board set a public hearing on the proposed zoning amendments at the next regular meeting, Wednesday, February 17, 2016 at the Town Hall.

- Noise Local Law

Motion by Mr. Hinman and second by Mr. Fitzpatrick the following amended Local Law be enacted:

**Local Law No. 1 - 2016 Entitled:
LOCAL NOISE LAW**

Town of Ellicottville

Local Law No. 1 of the year 1985, as amended by Local Law 1 of the year 2016.

A local law to prevent excessive, disturbing, unnecessary or unreasonable noise in the Town of Ellicottville.

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:

Section 1. Purpose.

In order to preserve, protect and promote the health, comfort, safety, welfare and peace of the Town of Ellicottville and its inhabitants, it is necessary to regulate noise within the Town and to prevent excessive, disturbing, unnecessary or unreasonable noise therein.

Section 2. Prohibition.

It shall be unlawful for any person or persons to make, continue, aid, countenance, cause to be made or assist in making any excessive, disturbing, unnecessary or unreasonable noise, except hereinafter provided, within the limits of the Town of Ellicottville.

Section 3. Standards.

Standards to be considered in determining whether any sound existing in a given situation constitutes excessive, disturbing, unnecessary or unreasonable noise within the prohibition of this Local Law include:

The volume of the noise;
The intensity of the noise;
Whether the noise is usual or unusual;
Whether the origin of the noise is natural or unnatural;
The volume and intensity of background noise, if any;
The proximity of the noise to residential sleeping facilities;
The time of the day or night the noise occurs;
The time duration of the noise;
Whether the sound source is temporary;
Whether the noise is continuous, impulsive or intermittent.

Section 4. Enumeration of Unnecessary and Unreasonable Noises.

The following acts, among others, are declared to be excessive, disturbing, unnecessary and unreasonable noise in violation of this Local Law, but any enumeration herein shall not be deemed to be exclusive:

- a. Horns, signaling devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle (other than an emergency vehicle) on any street or public place, except as a necessary or reasonable warning.
- b. Bands, musical instruments, radios, etc. The playing of music by any band, orchestra, radio, phonograph, musical instrument or other device for the production or reproduction of sound in such manner as to disturb the peace, quiet and comfort of neighboring inhabitants or at any time with louder volume than necessary for convenient hearing for the person or persons who are voluntary listeners thereto, except on a special occasion for which permission of the Town Board is first obtained, which permission shall specify the date, time and place that the activity is authorized. The playing or operating of any such band, instrument or device between the hours of 10:00 p.m. and 7:00 a.m. without such permission and in a manner as to be plainly audible on adjacent properties shall be *prima facie* evidence of a violation of this Local Law.
- c. Loudspeakers and amplifiers for advertising. The using, operating, or permitting to be used or operated, of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other device for the production or reproduction of sound which is cast upon the public street for the purpose of commercial advertising.
- d. Yelling, shouting, etc.
 - (1) Yelling, shouting, hooting, whistling or singing on the public streets or any public place between the hours of 10:00 p.m. and 7:00 a.m.
 - (2) Shouting and crying of peddlers, hawkers and vendors.
- e. The firing or discharging of a firecracker or other explosive substance within the limits of the Town of Ellicottville, except on some special celebration or occasion for which permission of the Town Board is first obtained, which permission shall

specify the date time and place that such activity is authorized, and the firing or discharging of a gun, rifle, pistol or other firearm within five hundred (500) feet of any dwelling within the limits of the Town except a dwelling which is occupied by the person who fires or discharges such firearm.

- f. Animals. The keeping or harboring of any animal which by causing frequent, loud or continued noise shall disturb the comfort, peace or repose of any persons in any residential area of the Town.
- g. Exhaust of engines. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, air compressor or motor vehicle engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

Section 5. Permitted Noise.

The following are specifically determined the permitted noises within the limits of the Town of Ellicottville:

- a. Sound created by persons engaged in logging, construction, building, repairing, grading, leveling, excavating, during the hours of 7:00 a.m. to 9:00 p.m., Monday through Friday, and during the hours of 9 a.m. to 6 p.m., Saturdays and Sundays;
- b. Sound created by farming, including, but not limited to, plowing and planting between sunrise and sunset, regardless of the day of the week;
- c. Sound created by any government agent or agency by the use of signaling or public warning devices;
- d. Sound created by lawnmowers or power tools in use between the hours of 9:00 a.m. and 9:00 p.m., Monday through Friday, and 10:00 a.m. and 8:00 p.m. Saturdays and Sundays;
- e. Sound created by public utilities or cable television franchises in carrying out the operation of their franchise;
- f. Sounds connected with sporting or other authorized events of any public or private school;
- g. Sounds necessarily connected with special events for which permission of the Town Board has been obtained, which permission shall specify the date, time and place that the activity is authorized.

Section 6. Severability.

If any clause, sentence, paragraph, or part of this Local Law shall be adjudged by any Court of competent jurisdiction to be invalid, such determination shall not effect, impair or invalidate the remainder of this Local Law.

Section 7. Penalties.

Any person who shall violate any of the provisions of this Local Law shall, upon conviction, be subject to a fine not to exceed the sum of Two Hundred Fifty and no/100 Dollars (\$250.00) or to imprisonment in the County Jail for a period not to exceed fifteen (15) days or to both such fine and imprisonment. The continuation of a violation of this Local Law shall constitute a separate and distinct offense for each separate day or part thereof that the violation is continued or renewed.

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

Voting Record:

Supervisor Matt McAndrew	AYE
Deputy Supervisor Ken Hinman	AYE
Councilman Steve Crowley	AYE
Councilman Greg Fitzpatrick	AYE
Councilman Rick Jackson	AYE

Executive Session

Motion by Mr. Hinman and second by Mr. Fitzpatrick to go into executive session at 7:12pm to discuss personnel matters. All Ayes. Carried.

Motion by Mr. Hinman and second by Mr. Jackson to resume regular session at 7:55om.

Present Written Department Reports for Approval

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

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

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

Department Heads

Don Auge – Police Department

The police department is still awaiting the delivery of the new police vehicle. OIC Auge reported that he had a very productive meeting with Dennis Eshbaugh and Bonnie Koshir from Holiday Valley.

Mark Alianello - Highway and Engineering Departments

- Horn Hill Traffic Light Request.

A resident of Horn Hill Road, Bryan Newpher, responded to the Board's decision not to install a traffic light at the intersection of Horn Hill Road and Route 242. He asked that the Board reconsider putting in the light because "the intersection is dangerous" and "it is difficult to see traffic coming from the East day or night". He also asked "why the Highway department uses this hazardous area as a turnaround?"

Mr. Alianello said that the Highway Department no longer uses the intersection as a turnaround and acknowledged that the sight distance is poor. However, he pointed out that the ability to see the headlights of approaching traffic helps to deter accidents. OIC Auge noted that there have not been accidents at this location. Supervisor McAndrew asked Mr. Alianello to write a letter to Mr. Newpher explaining why the Board decided not to grant his request of a light on Horn Hill Road. He will look into the possibility of placing reflectors at the intersection.

- Road Specifications

Mr. Alianello explained that the Town requires new Town roads to be built with a maximum grade of 8% but will allow 10% for short distances. Private roads do not have to comply with these specifications. He said that the restrictions can be difficult in a ski resort town. Mr. Alianello asked the Board if they might consider easing the restrictions. It was the general consensus that it was not in the Town's best interest to change the requirements because a road with steep grade can be hard to maintain and that developers have the option of building private roads.

- Booster Station

Mr. Alianello has been looking into replacing the booster station pump that was destroyed last year. He reported that he looked into replacing the damaged Weinman pump with an Allis-Chalmers pump to match the other pump in the pit. Unfortunately, this pump is no longer manufactured. However, parts to rebuild it are readily available. He has asked the water department personnel to locate the old Allis-Chalmers pump body that was removed from service about 20 years ago. We will send it to Fluid Kinetics in Orchard Park to see if it can be rebuilt and what that would cost.

- ADMAR bill

ADMAR agreed to give the Town a discount on future equipment rentals to compensate the Town for a previous misunderstanding.

- Jackman Hill Strobe Light

The strobe light on the Jackman Hill tower has been fixed.

New Business

- Town Planner Interviews

The committee in charge of appointing a new Town Planner had to cancel their last meeting due to bad weather. They will meet again next week.

- Procurement Policy

The Board was given the NYS Office of the State Comptroller's Local Government Management Guide entitled "Seeking Competition in Procurement." The Board will review the guide and address the Town's Procurement Policy in the future.

Old Business

- Naming of the Highway facility for David Golley

Discussion followed on the naming of the Highway Barn in memory of former Highway Superintendent David Golley. A possibility of naming the driveway leading to the facility "David Golley Drive" is being considered along with a sign for the building. Supervisor McAndrew will contact the family for their input and look into signage. A open house will be scheduled to commemorate the event sometime in the Spring.

Executive Session

On Motion by Mr. Hinman and second by Mr. Crowley the Board went into executive session at 8:29pm. All Ayes. Carried.

On Motion by Mr. Crowley and second by Mr. Hinman the Board resumed regular session at 9:05pm.

Adjournment

Motion by Mr. Crowley and second by Mr. Hinman to adjourn the meeting at 9:05pm. 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 20th day of January, 2016, approved by said Board on the 17th day of February, 2016.

Robyn A. George, Town Clerk