

MINUTES OF THE
REGULAR MEETING OF THE TOWN BOARD
OF THE TOWN OF ELLICOTTVILLE DECEMBER 20, 2017 at 6:00 pm
ELLICOTTVILLE TOWN HALL

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

Also Present: John Zerfas, John Thomas and Caitlin Croft, Press, Niles Pierson via phone, Mary O'Leary

Call meeting to order:

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

Public Hearing - Local Law #2 of 2017 - "Code of Ethics"

Supervisor McAndrew opened the public hearing on Local Law #2.

Approve Minutes

- Town Board Meeting - November 15, 2017

On motion by Mr. Hinman and second by Mr. Fitzpatrick the minutes of the November 15, 2017 Board meeting were

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

Privilege of the Floor

- Catt. Co. Community Services Director, Mary O'Leary

Ms. O'Leary outlined the services that the County provides for those with mental health issues. The department serves over 1,800 people.

Audit of Claims

- Pay Town bills on Distribution Report #12-17

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

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

Resolved that the Town bills be paid on General Ledger Distribution Report 12-17 as follows:

001 - General Fund A:	\$46,377.29		
002 - General Fund B:	\$26,091.84		
		General Fund Total:	\$72,469.13
004 - Highway DB	\$136,760.95		
		Highway Fund Total:	\$136,760.95
		006 - Water Fund Total	<u>\$ 5,712.38</u>
		Grand Total:	\$214,942.46

Supervisor's Reports

- Supervisor's Report

On motion by Mr. Fitzpatrick and second by Mr. Hinman the Supervisor's November 2017 Financial Report was

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

- Four Flusher's Meeting

The minutes from the Four Flushers meeting were reviewed. Mr. Alianello is estimating the cost to repair the E. Washington St. meter pit is between \$10,000 and \$19,000. The cost should be shared with the Village.

- Town/Village Public Work Works Position - IMA Agreement

The revised agreement was discussed. Another change was suggested.

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

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

Resolved to table the signing of the IMA agreement pending revisions.

- Evidence/Locker Room

The work on the Evidence/ Locker room is complete.

- Planning Board Appointment

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

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

Resolved to appoint Caitlin Croft to the Town Planning Board for the remainder of Art Chubb's term from January 1st to December 31st, 2018.

- Rick Jackson Recognition

The Supervisor and Councilmen thanked Rick Jackson for his service on the Board.

Present Written Department Reports for Approval

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

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

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

Department Heads.

Don Auge - Police Department

- Part-time Officer's Pay for Working Holidays

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

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

Nays 0

Resolved that the part-time Police Officers receive \$1.00 more an hour when working the B shift and get paid time and a half for working on holidays beginning January 1, 2018.

- 2018 Ford Explorer

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

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

Resolved that the Town accept delivery of the new police vehicle and pay for it upon delivery out of next year's budget.

Tom Scharf - Highway Department

- Highway Department Position - Nate Dunkleman

Nate Dunkleman submitted his letter of resignation. Discussion followed about a replacement for him.

- Culverts

Mr. Alianello estimated the cost of the barrel and end sects for the culvert on Poverty Hill Road Upper at \$24,508 and on Witch Hollow at \$57,440 for a total of \$81,948. The Poverty Hill Dickey Road culvert barrel and end sects total \$10,259.00. These amounts are based on County bid. He suggested that these be taken out of the 2017 budget.

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 \$81,948 be encumbered from line item 003.5120.0400 in the 2017 budget and \$10,259 be encumbered from line item 004.5110.0400 in the 2017 budget.

- Electrical Issues - Highway Barn

There are several electrical problems at the Highway Garage. Some areas lose power and there are hot wires. Mr. Alianello suggested a thermal imagining study

to determine the scope of work that needs to be done so the Town can bid the project out.

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

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

Resolved that the Town hire Gerwitz and McNeil to do a thermal imaging study on the electrical system at the Highway Garage.

Mark Alianello - Engineering Department

- Valley Village - Meeting December 20 at Town Hall
- Federal Surplus Property Program

The Federal Surplus Property Program is a marketplace for goods such as generators and plows that other agencies are selling for a fraction of the normal cost. The program is free to join.

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

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

Resolved that the Town Supervisor is authorized to sign the Federal Surplus Property Program Application.

- HVAC System

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

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

WHEREAS, the Town of Ellicottville has completed construction of the Town Hall HVAC System; and

WHEREAS, the Town Board of the Town of Ellicottville has received notice of final completion for the HVAC System ; NOW, therefore be it

RESOLVED, that the Town Board of the Town of Ellicottville accepts the HVAC System Project as complete.

New Business

- Ratify Village Appointment of Brooke Szpaicher to Fire Commission

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

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

Resolved that the Town Board ratify the appointment of Brooke Szpaicher to the Ellicottville Fire Commission.

- Bryant Hill Creek - Contract with River Research & Design

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

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

Resolved that the Town enter into an agreement with River Research and Design, Inc. for site evaluation of Bryant Hill Creek not to exceed \$6,500.

- Set Organizational Meeting

Motion by Mr. Crowley seconded by Mr. Fitzpatrick to set the Organizational Meeting for Wednesday, January 3, 2018 at 4:00pm at the Town Hall.

- Economic Development Planner Consultant

The Town and Village Grant's writer is asking for help in conducting research that will aid in the grants process.

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

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

Resolved that the Town enter into a contract with Emma Phillips to provide research, data compilation and other duties related to obtaining grants for Ellicottville. The contract shall not exceed \$4,000.

- Establish a Capital Reserve Fund - East Tank

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

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

**RESOLUTION ESTABLISHING A REPAIR RESERVE FUND
TO FINANCE REPAIRS AND MAINTENANCE TO THE
EAST TANK WATER STORAGE TANK AND APPURTENANCES**

RESOLVED, that pursuant to Gen. Mun. Law § 6-d, as amended, there is hereby established a capital reserve fund to be known as the East Tank Repair Reserve Fund (“Reserve Fund”). The purpose of this Reserve Fund is to accumulate moneys to finance the repairs and maintenance to the East Tank Water Storage Tank and Site Appurtenances including access road, the fencing and the site drainage improvements (“East Tank”). The type of repairs to be financed from the Reserve Fund is the repair and maintenance to East Tank

The chief fiscal officer, or an officer designated by the Town of Ellicottville Town Board (the “Board”), is hereby directed to deposit and secure the moneys of this Reserve Fund in the manner provided in Gen. Mun. Law § 10. The Board may reinvest the moneys in the Reserve Fund in the manner provided in Gen. Mun. § 11, and consistent with the investment policy of the Town of Ellicottville. Any interest earned or capital gains realized on the moneys so deposited or invested shall accrue to and become part of the Reserve Fund. The Board, or its designated officer, shall account for the Reserve Fund in a manner which maintains the separate identity of the Reserve Fund and show the date and amount of each sum paid into the fund, interest earned by the fund, capital gains or losses resulting from the sale of investments of the fund, the amount and date of each withdrawal from the fund and the total assets of the fund, showing cash balance and a schedule of investments, and shall, at the end of each fiscal year, render to the Board a detailed report of the operation and condition of the Reserve Fund.

Except as otherwise provided by law, expenditures from this Reserve Fund shall be made only for the purpose for which the Reserve Fund is established. No expenditure shall be made from this Reserve Fund without the approval of the Board and such additional actions or proceedings as may be required by Gen. Mun. Law § 6-d and any other law.

- East Tank Project Completion Resolution

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

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

WHEREAS, the Town of Ellicottville has completed construction of the East Tank Project; and

WHEREAS, the Town Board of the Town of Ellicottville has received notice of final completion for the East Tank Project; NOW, therefore be it

RESOLVED, that the Town Board of the Town of Ellicottville accepts the East Tank Project as complete.

- Middle Zone Loop Project Completion

WHEREAS, the Town of Ellicottville has completed construction of the Middle Zone Loop Project; and

WHEREAS, the Town Board of the Town of Ellicottville has received notice of final completion for the Middle Zone Loop Project; NOW, therefore be it

RESOLVED, that the Town Board of the Town of Ellicottville accepts the Middle Zone Loop Project as complete and return the remaining funds to the operating fund (water) in the amount of \$47,288.03.

- Budget Modification

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

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

Resolved that the Town make the following budget modifications to partially fund the purchase of the F 550 truck:

Highway Fund - DB

004-5110-0400 Contractual		40,000
004-5130.0200 Equipment	40,000	
	<u>40,000</u>	<u>40,000</u>

- AECOM Consulting Services Agreement - Gary Palumbo

Gary Palumbo provided a Consulting Services Agreement for his services as Town Planner for 2018. The Board will address it at the Organizational meeting.

Old Business

- Code of Ethics

Motion by Mr. Crowley and second by Mr. Fitzpatrick to close the public hearing on Local Law #2 entitled "Code of Ethics". All Ayes. Carried.

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

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

Resolved to adopt the following Local Law:

LOCAL LAW #2-2017 ENACTING A CODE OF ETHICS FOR THE TOWN OF ELLICOTTVILLE

BE IT ENACTED by the Town Board ("Board") of the Town of Ellicottville ("Town") as follows:

Article I. Title of Local Law.

This Local Law shall be entitled "A Local Law Enacting a Code of Ethics for the Town of Ellicottville" ("Local Law").

Article II. Authorization.

The Local Law is enacted pursuant to Gen. Mun. Law § 806 and Mun. Home Rule Law § 10. The ethical standards and prohibited conduct established by the Local Law are in addition to, and are not meant to condone by exclusion, any provisions prescribed by the statutes and common law of New York.

Article III. Statement of legislative intent.

The Board recognizes that New York enacted statutory provisions mandating towns to establish rules and standards of ethical conduct for public officers and employees, which, if observed, can enhance public confidence in local government. The purpose of the Local Law is to implement this objective through the establishment of high standards of

ethical conduct for Officers and Employees of the Town, to afford Officers and Employees of the Town guidance on such standards, to provide a means to enforce such standards, and to provide for the fair and effective administration of the Local Law.

Article IV. Definitions.

Officer: shall mean a member of any board, commission, district, council or other agency, department or unit of the government of the Town.

Employee: shall mean any officer or employee of the Town, whether paid or unpaid, including members of any administrative board, commission or other agency thereof, whether serving in a full-time, part-time or advisory capacity. The term "Employee" does not include a person who is a member of a volunteer emergency services organization or a person who serves without compensation on a temporary Town committee and who is not otherwise an employee or officer of the Town.

Interest: shall mean a pecuniary or material benefit accruing to an Officer or Employee, a member of his or her household, his or her customer or client, or a significant contributor to his or her campaign.

Article V. Rules With Respect to Conflicts of Interest and Ethical Conduct.

- a) An Officer or Employee shall not have any Interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties.
- b) An Officer or Employee shall not have an Interest in any contract with the Town, whether individually or as a member of a board, nor shall Officers and Employees have the power or duty to negotiate, prepare, authorize or approve such contract or payments thereunder, audit bills or claims under such contract, or appoint any person who would have any of the powers or duties set forth herein.
- c) An Officer or Employee having Town fiscal responsibilities shall not have an Interest in a bank or trust company designated as a depository of Town funds. This subsection does not prohibit ownership of up to five percent of the outstanding shares of such bank or trust company.

- d) An Officer or Employee shall not accept other employment which will impair his independence of judgment in the exercise of his official duties.
- e) An Officer or Employee shall not accept employment or engage in any business or professional activity which will require the disclosure of confidential information gained by reason of his official position or authority. An Officer or Employee, or former Officer or Employee, shall not disclose any confidential information acquired by him in the course of his official duties or use it to further personal interests.
- f) An Officer or Employee shall not use, or attempt to use, his official position to secure unwarranted privileges or exemptions for himself or others.
- g) An Officer or Employee shall not engage in any transaction as representative or agent of the town with any business entity in which he has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties.
- h) An Officer or Employee shall not make personal investments in enterprises which he has reason to believe may be directly involved in decisions to be made by him or which will otherwise create substantial conflict between his duty in the public interest and his private interest.
- i) An Officer or Employee shall pursue a course of conduct which will not raise suspicion, or give the impression, among the public that he is likely to be engaging in acts that are in violation of his trust.
- j) An Officer or Employee shall disclose any interest of which he is aware in any matters pending before any board of the Town.
- k) An Officer or Employee shall not directly or indirectly solicit any gift or accept or receive any gift having a significant value, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or in any other form under such circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him in the performance of his official duties, or was intended as a reward for any official action on his part.
- l) Town resources may not be used by an Officer or Employee in

furtherance of his campaign activities, including, but not limited to, mass mailings, telephones, office supplies, postage, copying machines, computers or support staff.

- m) An Officer or Employee shall not knowingly act contrary to a lawful resolution or motion duly adopted by the Board.
- n) An Officer or Employee shall pursue a responsible and well-informed course of conduct when discussing Town issues in public, including engaging in Facebook and other social media activities, so as not to carelessly affect the Town, its Employees or Officials in a negative way.
- o) An Officer or Employee shall not disclose any information discussed during an Executive Session or during an Attorney/Client Privileges session of a Town Board Meeting.

Article VI. Disclosure of Interest.

Any municipal officer or employee who has, will have, or later acquires an interest in an actual or proposed contract with the municipality or other matter pending before any board or agency thereof, shall publicly disclose the nature and extent of such interest in writing to the governing body thereof as soon as he has knowledge of such actual or prospective interest.

Article VII. Recusal.

An Officer or Employee shall promptly recuse himself from acting on a matter before the Town where acting on the matter may financially benefit any of the following persons: (i) the Officer or Employee; (ii) his employer or business; (iii) a member of his household; (iv) his customer or client; or (v) a person from whom the officer or employee has received significant election campaign contributions during the most recent election cycle.

Article VIII. Violations.

In the event that the Board determines that an Officer or Employee violated a provision of the Local Law, the Board may subject him to removal or any sanction or damages authorized by law.

Article IX. Administration.

Upon the adoption of the Local Law, the Town Supervisor shall cause a copy to be distributed to every Officer or Employee of the Town and to keep a copy posted conspicuously in each public building under the

jurisdiction of the Town. Failure to distribute or post the Local Law shall have no effect on its enforcement provisions or on an Officer or Employee's duty of compliance.

Article X. Severability Clause.

If any clause, sentence, paragraph, section or part of this local law shall be adjudicated by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Article XI. Effective Date.

This Local Law shall take effect immediately upon its filing with the Secretary of State.

Correspondence

- Great Valley Seniors Thank You

Executive Session

Motion by Mr. Hinman and second by Mr. Fitzpatrick to go into executive session at 7:40pm to discuss the Highway position. All Ayes. Carried.

Motion by Mr. Hinman and second by Mr. Crowley to resume regular session at 8:10pm. All Ayes. Carried.

Adjournment

Motion by Mr. Hinman and second by Mr. Jackson to adjourn the meeting at 8:11pm. 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 December, 2017, approved by said Board on the 17th day of January, 2018.

Robyn A. George, Town Clerk