

MINUTES – TOWN OF ALLEGANY REGULAR BOARD MEETING TUESDAY, SEPT. 9, 2014 7:00 PM SENIOR CENTER

PRESENT WERE: Supervisor Hare Councilman Koebelin
Councilman O'Dell Councilman Hitchcock
Councilman Parker Attorney Tuttle
Town Clerk M. Peck

Also Present: C. Horowitz, F. DeFiore, residents, non-residents, news media

Absent: Hwy. Supt. J. Moshier, Comptroller C. Hemphill

Salute to the Flag at 7:00 pm opened the meeting.

AUDITED CLAIMS

Gen A	\$23,377.26	Hwy DA	\$ 72,718.80
Gen B	\$ 4,219.21	Hwy DB	\$226,351.10
Sp Dist	\$ 2,917.21		

MONTHLY REPORTS

Town Clerk	Building & Zoning Dept.
Recreation & Parks Dept.	Highway Dept.

Town Justice D. Porter – report for Aug. 2014 – amount of check: \$7910.00.

Town Justice A. Spears - report for Aug. 2014 - amount of check: \$8312.75.

#134-MOTION TO APPROVE MINUTES

Motion by O'Dell to approve the minutes from the August 12, 2014 meeting as written. 2nd by Hitchcock. Koebelin-aye, O'Dell-aye, Hitchcock-aye, Parker-aye, Hare-aye. CARRIED.

CORRESPONDENCE

1. Town of Allegany Planning Board minutes from the July 14, 2014 meeting.
2. NYS ORPS – 2014 final equalization rate: 100.00
3. NYMIR – notice of “Drive to Survive” seminar in Belmont, NY – 9/29 and 9/30/14
4. TWC – notice of franchise fee payment: \$12,534.20.
5. Letters from M. Burns, D.Kelly, B. Bertoldo, and C. Ladd to the Town Board requesting that the wind overlay district be rescinded.
6. Catt. Co. Treasurer – notice of town sales tax receipts for 2011, 2012, 2013
7. NYS Dept. of Public Service – Re: Lifeline Discount Telephone Service Program.
8. Letter from M. Meyers regarding the canoe/kayak launch near river park
9. Letters from residents and non-residents to the Town Board and Planning Board requesting that the wind overlay district be rescinded.

NEW BUSINESS

1. Negative Declaration regarding the removal of the wind overlay district.
2. Rescinding Wind Overlay District created by the Town Board on 8/29/11
3. Letter from Norm Fleming regarding health insurance
4. Appointment of part time Court Clerk – Bonita Harrier @\$9.00/hr effective 9/16/14.

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5. Refer to Town Planning Board and County Planning Board for review and recommendation changes to I-1 Zoning.
 6. Resolution authorizing Supervisor to sign final sale agreement with SBU.
- Town Planner, Carol Horowitz gave a short summary of the Full Environment Assessment Form for the proposal to rescind the Wind Overlay District. Supervisor Hare then read through Part 2 of the FEAF aloud, # 1 – 18 wherein each board member “ayed” in agreement with.

#135-MOTION TO ADOPT NEGATIVE DECLARATION OF ENVIRONMENTAL SIGNIFICANCE

Motion by Hare **WHEREAS**, the Town Board of the Town of Allegany (herein the “Town Board”) has previously adopted Ordinance #1 of 2011, creating a Wind Energy Overlay District in the Town of Allegany, and is now considering a new ordinance rescinding that Ordinance; and **WHEREAS**, the Town Board, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43B of the Consolidated Laws of New York, as amended (“SEQR Act”), and the regulations (the “Regulations”) adopted pursuant thereto by the Department of Environmental Conservation for the State of New York (collectively with the SEQR Act, “SEQRA”), reviewed the EAF for the rescission of the Wind Overlay District took a hard look at the environmental impacts of the Rescission Ordinance, and the criteria for determining environmental significance under SEQRA. **NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF TOWN BOARD OF THE TOWN OF ALLEGANY AS FOLLOWS:** 1. The Town Board finds that adoption of the Rescission Ordinance will not have a significant adverse impact on the environment and therefore issues the attached Negative Declaration of Environmental Significance. 2. This Resolution shall take effect immediately. 2nd by O’Dell. Koebelin-aye, O’Dell-aye, Hitchcock-aye, Parker-aye, Hare-aye. CARRIED.

#136-MOTION TO ADOPT ORDINANCE #1 OF 2014, RESCINDING ORDINANCE #1 OF 2011, CREATING A WIND ENERGY OVERLAY DISTRICT IN THE TOWN OF ALLEGANY

Motion by Hare **WHEREAS**, the Town Board of the Town of Allegany (herein the “Town Board”) has previously adopted Ordinance #1 of 2011, creating a Wind Energy Overlay District in the Town of Allegany, upon the application from Allegany Wind LLC for said rezoning; and **WHEREAS**, Allegany Wind has abandoned its wind energy project in the Town of Allegany, and terminated efforts to obtain a new Special Use Permit for its project; and **WHEREAS**, pursuant to the Town of Allegany Zoning Ordinance II and Town Law Section 130, the Town Board held a public hearing to consider adoption of a new ordinance (the “Rescission Ordinance”) rescinding Ordinance #1 of 2011 and removing the Wind Energy Overlay District from the Town zoning map; and **WHEREAS**, the Town Board referred the Rescission Ordinance to the Cattaraugus County Planning Board pursuant to General Municipal Law Section 239-m, and the County Planning Board recommended approval of the Rescission Ordinance; and **WHEREAS**, the Town Board referred the Rescission Ordinance to the Town Planning Board, pursuant to Zoning Ordinance II, and the Town Planning Board recommended approval of the Rescission Ordinance; and **WHEREAS**, the Town Board, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43B of the Consolidated Laws of New York, as amended (“SEQR Act”), and the regulations (the “Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State

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of New York (collectively with the SEQR Act, “SEQRA”), reviewed the EAF for the Rescission Ordinance, took a hard look at the environmental impacts of the Rescission Ordinance and issued a Negative Declaration of Environmental Significance. **NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF TOWN BOARD OF THE TOWN OF ALLEGANY AS FOLLOWS:** 1. Ordinance #1 of 2011, creating the Wind Energy Overlay District in the Town of Allegany is hereby rescinded by the Ordinance #1 of 2014, which is incorporated herein. 2. This Resolution shall take effect immediately; the Ordinance shall be effective 10 days after publication, as provided for by Town Law §§ 133 and 264. The Town Board of the Town of Allegany hereby rescinds the Wind Energy Overlay (WE) District adopted by Ordinance # 1 of 2011, and amends the Town Zoning Map to remove Wind Energy Overlay (WE) District from the following parcels:

	Parcel No.
1	102.001-1-3.2
2	102.001-1-7
3	102.001-1-29
4	102.001-1-26
5	102.003-1-1.1
6a	102.003-1-3.1 **
6b	102.003-1-3.2 **
7	102.003-1-6
8	102.003-1-4
9	102.003-1-5
10	102.004-1-1
11	102.003-1-7.2
12	111.002-1-28.1
13	102.003-1-8
14	101.004-3-2
15	102.003-1-9
16	101.004-3-3
17	111.001-1-2
18	102.004-1-2.1
19	102.004-1-4
20	102.002-1-36.23
21	103.003-1-3.1
22	103.001-1-14.1
23	103.001-1-13.1
24	102.002-1-36.1
25	103.001-1-7

** On 1/3/2013 parcel 102.003-1-3 , listed in Ordinance # 1 of 2011, was split into parcel 102.003-1-3.1 and parcel 102.003-1-3.2.

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Section 2: Severability

Should any provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

Section 3: Effective Date

This Ordinance shall be effective 10 days after publication, as provided for by Town Law §§ 133 and 264. 2nd by Koebelin. Koebelin-aye, O'Dell-aye, Hitchcock-aye, Parker-aye, Hare-aye. CARRIED.

#137-MOTION TO ADDRESS NORM FLEMINGS HEALTH INSURANCE CHANGE REQUEST

Motion by Hare to approve Norm Fleming's health insurance change request pursuant to the numbers prepared by Comptroller Hemphill which shows a savings for the Town. This motion is being made with the understanding that the Town will only consider modification for retiree policies being offered by the Town that don't increase costs to the Town. 2nd by Parker. DISCUSSION: Councilman Koebelin questioned if the board should do this? Is it not setting a precedent? Koebelin-nay, O'Dell-nay, Hitchcock-aye, Parker-aye, Hare-aye. CARRIED.

#138-MOTION TO APPOINT PART TIME COURT CLERK

Motion by Hare to appoint Bonita Harrier as part time court clerk at \$9.00 per hour effective 9/16/14, with a 90 day probation period. 2nd by Hitchcock. Koebelin-aye, O'Dell-nay, Hitchcock-aye, Parker-aye, Hare-aye. CARRIED.

#139-MOTION TO REFER REQUESTED ZONING CHANGE TO THE TOWN PLANNING BOARD

Motion by Hare **WHEREAS**, the Town Board of the Town of Allegany has received an application for a text amendment to the Town's Zoning Ordinance, to add "Commercial Recreation Facility" as a Conditional Use requiring a Special Use Permit in the I-1 Light Industrial District, to Section 4.02 – District Use Regulations, Schedule A; and **WHEREAS**, Section 12.02 requires the Town Board to refer every proposed amendment to the Zoning Ordinance to the Town Planning Board for its review and recommendation; **NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TOWN BOARD OF THE TOWN OF ALLEGANY** to refer the proposed amendment to the Town Planning Board for its review and recommendation. 2nd by Koebelin. Koebelin-aye, O'Dell-aye, Hitchcock-aye, Parker-aye, Hare-aye. CARRIED.

#140-MOTION TO AUTHORIZE TOWN SUPERVISOR TO SIGN FINAL SALE AGREEMENT WITH SBU

Motion by Hitchcock to authorize the Town Supervisor to sign the final sale agreement, documents and deed with St. Bonaventure University. 2nd by Parker. Koebelin-aye, O'Dell-aye, Hitchcock-aye, Parker-aye, Hare-aye. CARRIED.

#141-MOTION TO ACCEPT PROPOSAL FROM AUSTIN SECURITY FOR PANIC SWITCHES IN TOWN HALL

Motion by Hare to accept the proposal from Austin Security in the amount of \$265.80 for installation of panic switches in the Town Hall offices. 2nd by O'Dell. DISCUSSION: this was advised by our insurance company (NYMIR). Koebelin-aye, O'Dell-aye, Hitchcock-aye, Parker-aye, Hare-aye. CARRIED.

#142-MOTION TO AMEND THE TOWN OF ALLEGANY PROCUREMENT POLICY

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Motion by Hare to amend the current Town of Allegany Procurement Policy to include item 7 K.: Goods purchased from the National Joint Powers Alliance (NJPA), a national public service agency, for less than \$10,000.00. However, Goods purchased for \$10,000.00 but less than \$20,000.00 from NJPA shall be subject to prior Town Board review and authorization. In no event shall purchases of Goods for \$20,000.00 or more be made from NJPA. 2nd by Koebelin. Koebelin-aye, O'Dell-aye, Hitchcock-aye, Parker-aye, Hare-aye. CARRIED.

#143-MOTION TO DONATE TO BONAGANY FESTIVAL

Motion by Hare to donate \$500.00 to the BONAGANY Festival which will come out of the Contingency Fund. 2nd by Hitchcock. Koebelin-aye, O'Dell-aye, Hitchcock-aye, Parker-aye, Hare-aye. CARRIED.

#144-MOTION TO PURCHASE KUBOTA MOWER FOR CEMETERY

Motion by Hare to purchase a Kubota mower for the cemetery from Lamb & Webster, total cost: \$12,168.40; \$3,000.00 of which was budgeted for equipment "reserve fund" and the remainder of \$9,168.40 to come out of the \$25,000.00 CD cemetery funds. 2nd by Hitchcock. Koebelin-aye, O'Dell-aye, Hitchcock-aye, Parker-aye, Hare-aye. CARRIED.

OLD BUSINESS

1. Modification of the Town's Procurement Policy to incorporate NJPA option.
2. Mower purchase for cemetery
3. BONAGANY funding

COMMITTEE REPORTS

- Supervisor Hare – there will be a budget work session on Tuesday, Sept. 23, 2014 at 5:45 pm prior to the next regularly scheduled meeting.
- Supervisor Hare – advised that the river/trail repairs started today as the water in the river has receded so that the work can be completed. We are to receive some funding for this from the River Trail Committee.
- Frank DeFiore – advised that the Cemetery information is now on the Town/Village website.

From the floor:

- Ellen Peck – asked who is eligible for health insurance and for how long?
- Supervisor Hare – advised only full time employees are eligible.

#145-MOTION TO ADJOURN TO EXECUTIVE SESSION FOR A PERSONNEL MATTER

Motion by Hare to adjourn to executive session for a personnel matter. 2nd by O'Dell. Koebelin-aye, O'Dell-aye, Hitchcock-aye, Parker-aye, Hare-aye. CARRIED.

This portion of the meeting adjourned at 8:10 pm

#146-MOTION TO ADJOURN EXECUTIVE SESSION

Motion by Hare to adjourn executive session and return to regular session. 2nd by O'Dell. Koebelin-aye, O'Dell-aye, Hitchcock-aye, Parker-aye, Hare-aye. CARRIED.

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#147-MOTION TO ADJOURN ENTIRE MEETING

Motion by Parker to adjourn entire meeting. 2nd by Hitchcock. Koebelin-aye, O'Dell-aye, Hitchcock-aye, Parker-aye, Hare-aye. CARRIED.

Meeting adjourned at 8:41 pm

Respectfully submitted,

Mary M. Peck, Town Clerk
9/10/14