

MINUTES – TOWN OF ALLEGANY
REGULAR BOARD MEETING
TUESDAY, FEBRUARY 22, 2022 7:00 PM TOWN HALL

PRESENT:

Supervisor Higgins	Councilwoman Martin
Councilman Cooper	Councilman Nazemetz
Councilman Maguire	Comptroller D. Piccioli
Hwy. Superintendent Moshier	

ABSENT:

Town Clerk D. Pinney. Attorney Tuttle

ALSO PRESENT:

Grif Jones, Edwin Becker, Susan Feldbauer, Hyde Clarke, Esq. representing CleanChoice Energy

Salute to the Flag opened the meeting

MOTION TO ACCEPT MINUTES FROM THE FEBRUARY 8, 2022 REGULAR BOARD MEETING - tabled until next meeting

CORRESPONDENCE

1. NY Towns – 2022 Virtual Annual Meeting & Training School
2. Cattaraugus County Health Dept. – Notice of Monitoring Violation – Comprehensive Water Dist.
3. Public Service Commission – invites public comment on the Broadband Assessment Program

NEW BUSINESS

1. Speed Study Request (Buffalo Rd.)

#53-RESOLUTION FOR SPEED LIMIT REDUCTION (County Road 83)

Resolution made by: Councilwoman Martin **Seconded by:** Councilman Nazemetz

WHEREAS: residents are concerned with the continued high rate of traffic speed on County Road 83 between Maple Ave. Ext. & the Town of Olean line, and

WHEREAS: the procedure is for the Town to request by resolution and a completed Form TE 9a for the County Commissioner of Public Works to proceed with a request to the New York State Department of Transportation for a regional traffic engineer study, and

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WHEREAS: the residents feel that a possible speed reduction be investigated,

THEREFOR: the Allegany Town Board resolves that a request for a traffic study be completed on County Road 83 between Maple Ave. Ext. & the Town of Olean line and that the Town Clerk complete and submit a Form TE 9a to the County Commissioner of Public Works

Councilman Nazemetz	Aye X Nay
Councilman Cooper	Aye X Nay
Councilman Maguire	Aye X Nay
Councilwoman Martin	Aye X Nay
Supervisor Higgins	Aye X Nay

The motion was carried.

Town Clerk Deryle Pinney 2/22/2022

The foregoing information is true and accurate of what is on file at the Town Clerk's Office, 52 W. Main St., Allegany, NY 14706.

2. Approve Dawn Snyder replacing Mike Higgins term of 2/22/2022-12/31/2023

#38-MOTION TO APPOINT PLANNING BOARD MEMBER

Motion by Supervisor Higgins to appoint Planning Board member Dawn Snyder to replace Mike Higgins for a 2-year term (2/22/22-12/31/23). 2nd by Councilman Nazemetz. Higgins-aye, Martin- aye, Cooper-aye, Maguire-aye, Nazemetz-aye.

CARRIED:

3. Undertaking for the benefit of The NYS Department of Transportation -In connection with work affecting state highways
 - An annual renewal will still need to be done

#54-RESOLUTION FOR UNDERTAKING FOR THE BENEFIT OF THE NYS DEPARTMENT OF TRANSPORTATION IN CONNECTION WITH WORK AFFECTING STATE HIGHWAYS

Resolution made by: Supervisor Higgins **Seconded by:** Councilwoman Martin

WHEREAS, the undersigned Town of Allegany from time to time receives permits from the New York State Department of Transportation (hereinafter referred to as the "NYSDOT") and otherwise conducts activities and operations upon highways and/or within right-of-way controlled by the State of New York for such purposes as the obstruction, installation, construction, maintenance and/or operation of facilities;
and

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WHEREAS, Permittee's access and operation upon state right-of-way is conditioned upon compliance with Highway Law Sections 52, 103, 203 and/or 234, including the conditions that Permittee assume all responsibility for (a) the temporary control of all modes of traffic (including motorized and non-motorized travel) affected by Permittee's operations, (b) complete restoration of state facilities to their condition prior to permitted use or activity, and (c) all claims, damages, losses and expenses,

NOW, THEREFORE, in relation to all operations and/or actions undertaken within state right-of way, Permittee hereby agrees to the following terms and conditions:

1. Permit Applications. Excepting only activities undertaken to protect public safety because of emergency conditions or incidents, Permittee shall provide timely written notice to NYSDOT of ___ operations or activities affecting state right-of-way. Under normal circumstances, a minimum of five business day notice shall be provided. Notification of emergency activities shall be provided to NYSDOT as soon as practicable after the activity. The Permittee shall apply for project-specific permits for activities not allowed under any existing annual permit, Such application shall identify proposed project locations, desired dates/hours, proposed work/activities, traffic control, and site restoration
2. Applicable Rules, Regulations & Conditions. Permittee shall comply with all of the laws, rules and regulations applicable to construction, maintenance activities and operations and shall further comply with such terms and conditions that may be imposed by NYSDOT in connection with permitted activity or operations. Temporary Traffic Control, highway safety appurtenances, and restoration of state facilities shall be completed in accordance with NYSDOT regulations and standards.
3. Site Restoration. Permittee shall, at its own expense, promptly complete the work allowed under each permit and, within a reasonable time, restore State property damaged by its work/activities to substantially the same or equivalent condition as existed before such work was begun as determined by the Commissioner or his/her designee. In the event that the Permittee fails to so restore damaged State property within what the Commissioner deems to be a reasonable time, the Commissioner, after giving written notice to the Permittee, may restore the property to substantially the same or equivalent condition as existed before the Permittee's work/activities, in which case, Permittee agrees to reimburse the reasonable expenses in connection therewith.
4. Payment & Release of Liens. Permittee shall be responsible for the payment of all costs and materials relating to its work in the public right-of-way, and agrees to defend and save harmless NYSDOT against any and all lien claims

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made by persons supplying services or materials to Permittee in connection with Permittee's work.

5. Indemnity. In addition to the protection afforded to NYSDOT under any available insurance, NYSDOT shall not be liable for any damage or injury to the Permittee, its agents, employees, or to any other person, or to any property, occurring on the site or in any way associated with Permittee's activities or operations, whether undertaken by Permittee's own forces or by contractors or other agents working on Permittee's behalf. To the fullest extent permitted by law, the Permittee agrees to defend, indemnify and hold harmless the State of New York, NYSDOT, and their agents from and against all claims, damages, losses and expenses, including but not limited to, claims for personal injuries, property damage, wrongful death, and/or environmental claims and attorney fees arising out of any such claim, that are in any way associated With the Permittee's, activities or operations under any and all permits issued using this Undertaking.

FURTHERMORE, Permittee hereby warrants that the obligations of this Undertaking are backed by the full faith and credit of Permittee. Permittee may insure or bond any of the obligations set forth herein, or may rely upon self-insurance, budgeted funds, or funds for general operations.

This Undertaking shall be applicable to all permitted activities and operations undertaken after the date of execution and work initiated While this Undertaking is in effect. This Undertaking may be revoked by the Permittee or rejected by NYSDOT upon thirty days written notice but will continue to apply to all permitted activities/operations that were permitted by virtue of this Undertaking. Unless terminated for the purpose of future activities/operations, this Undertaking shall have a term of twenty (20) years and shall be kept on file to facilitate the issuance of future permits to which it will apply.

IN WITNESS WHEREOF, The Town of Allegany agrees to the terms of this Undertaking, and has caused its execution by the authorized officer or employee

Higgins-aye, Martin- aye, Cooper-aye, Maguire-aye, Nazemetz-aye. CARRIED:

4. Contract with Cattaraugus County for Mosquito spraying services-tabled until Supervisor Higgins can review the contract

OLD BUSINESS - none

OTHER BUSINESS

1. Referral from ZBA regarding Edwin Becker (#125-21), for a Zoning Interpretation/Determination

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- A petition for zoning change was filed by Edwin Becker for his property located at Five Mile Rd. & Buffalo Rd., Tax Map Id No. 93.002-2-15.1
- Hyde Clarke, Esq. representing CleanChoice Energy spoke supporting zoning change petition
- Supervisor Higgins stated the petition was not expected & the Board was planning to be review the request from the ZBA. They will have to look into how to handle a change of zone petition. Attorney Tuttle will need to review this petition.
- The Town Board will review & discuss the documents and likely refer to the Planning Board for advice at the next meeting if needed.

2. ARPA Funds / Future Projects / 5-year plan – discussion

#55-MOTION TO GRANT A 2ND STIPEND OF PREMIUM PAY FOR ESSENTIAL EMPLOYEES

Motion by Supervisor Higgins to grant a 2nd stipend of premium pay for Town of Allegany essential employees under the Federal American Rescue Plan Act (APRA) funding. This includes all part/full time eligible employees. This payment will follow guidelines as established in motion #120 dated September 14, 2021. 2nd by Councilman Nazemetz. Higgins-aye, Martin- aye, Cooper-aye, Maguire-aye, Nazemetz-aye. CARRIED:

- The increase in appropriations funds are as follows:

General A Fund	\$20,395.67
General B Fund	\$ 3,053.23
Highway DB	<u>\$14,640.40</u>
Total	\$38,089.30

3. Future projects

- The Board discussed future projects possibilities for Stayer Park. The Little League fields are under used. The possibility of a dog Park was discussed & Intandem has expressed interest in using park space for its consumers.

COMMITTEE REPORT

1. Union Negotiation – Mike & Kathy
 - Nothing at this time
2. Personnel – Alex & Craig
 - CEO & Town Hall Handy Person

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3. Highway – Mike & Andy
 - Talk to John about needed projects
4. Recreation – Alex & Andy
 - 4th & Maple lease discussion (additionally insured)
 - Buy & install water fountain/install & repair stand for the trail
 - Proof of insurance needed for people using 4th & Maple that are not part of the Town
 - Discuss purchasing water fountain with pet station
5. Building/Grounds & Safety – Kathy & Mike
 - Town Hall Renovation, Carpets
 - Doors are in
 - Lift is not working
 - Rug/rubber mats – waiting for quotes
 - Working on quotes for bathrooms
6. Water/Sewer – Kathy & Craig
 - Allegany Crossings/Sewer Line Extension
 - DWSP2/Well Head Protection
 - Colonial Village may be interested in sewer service
 - CPL to do water /sewer to properties within the park
7. Technology – Craig & Andy
 - Discussion of the Towns website, virtual meetings & may change email
 - Panic buttons are installed & working
 - Data Branch has the low quote for security cameras
8. Parks & Cemetery – Kathy & Alex
 - E&M Engineers survey quote

#56- MOTION TO FOR CEMETERY SURVEY

Motion by Supervisor Higgins to have E&M Engineers do a survey of the Allegany Cemetery. 2nd by Councilman Cooper. Higgins-aye, Martin- aye, Cooper-aye, Maguire-aye, Nazemetz-aye. CARRIED:

FROM THE FLOOR – none

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EXECUTIVE SESSION - PERSONNEL

#57-MOTION TO ADJOURN TO EXECUTIVE SESSION FOR PERSONNEL REASONS.

Motion by Supervisor Higgins to adjourn to executive session at 8:06 pm for legal/personnel reasons. 2nd by Councilman Nazemetz. Higgins-aye, Martin- aye, Cooper- absent, Maguire-aye, Nazemetz-aye. CARRIED:

#58- MOTION TO RETURN TO REGULAR SESSION.

Motion by Councilman Maguire to return to regular session at 8:17 pm. 2nd by Councilman Cooper. Higgins-aye, Martin- aye, Cooper- absent, Maguire-aye, Nazemetz-aye. CARRIED:

#59- MOTION TO ADJOURN THE MEETING

Motion by Supervisor Higgins to adjourn the entire meeting at 8:18 pm. 2nd by Councilman Nazemetz. Higgins-aye, Martin- aye, Cooper-aye, Maguire-aye, Nazemetz-aye. CARRIED:

Respectfully submitted,

Deryle L. Pinney, Town Clerk
2/22/2022