

## Official Minutes

A regular meeting of the Town Board of the Town of Lima, County of Livingston and the State of New York was held at the Town Hall, 7329 East Main Street, Lima, New York, on the 3rd day of December 2019 at 6:00 P.M. Notice was printed in the Mendon-Honeoye Falls-Lima Sentinel.

**PRESENT:** Supervisor, Michael Falk  
Deputy Supervisor, Ian Adams  
Councilperson, Cathy Gardner  
Councilperson, Bill Carey  
Councilperson, Bruce Mayer  
Councilperson, Dan Marcellus  
Town Clerk, Jennifer Heim  
Town Attorney, James Campbell  
Highway Superintendent, Keith Arner

**Guest(s):** Leta Button

### **Call the Meeting to Order**

Supervisor Falk called the meeting to order at 6:00 P.M. followed by the Pledge of Allegiance.

### **Supervisor's Report**

Supervisor Falk mentioned receipt of said report. On a motion by Councilperson Gardner to accept the Supervisor's report, seconded by Councilperson Carey, the vote went as follows:

**CARRIED:** Ayes: 5 Falk, Gardner, Mayer, Marcellus, Carey  
Nays: 0

### **November 5<sup>th</sup> Town Board Minutes & November 19<sup>th</sup> Joint Town & Village Board Minutes**

Minutes were approved upon motion by Councilperson Mayer, seconded by Councilperson Gardner, the vote went as follows:

**CARRIED** Ayes: 5 Falk, Gardner, Mayer, Marcellus, Carey  
Nays: 0

**Audit of Claims/Abstracts**

Resolved that the bills contained on Abstract #12 have been reviewed by the Town Board and are authorized for payment in the following amounts:

General Funds:	No. 365 through 397	\$112,214.13
Water Funds 1, 2, &3:	No. 43 through 46	\$ 12,689.73
Highway Funds:	No. 193 through 207	\$ 9,054.96

On a motion by Councilperson Mayer, seconded by Councilperson Carey, the vote went as follows:

CARRIED           Ayes: 5       Falk, Gardner, Mayer, Marcellus, Carey  
                          Nays: 0

**Building Inspector/Code Enforcement Officer Report**

Charlie Floeser discussed his report.

**Town Water Report**

Highway Superintendent Arner explained the water report.

**Village Water Project #2**

Falk mentioned the Village is gathering easements and an indemnification for Harold Avenue is still in the works. It was also mentioned that the metering house was discussed at the Planning Board and approved.

**Non-Exclusive Assignment of Permanent Easement for Utilities and General Municipal Purposes**

Town Attorney Campbell distributed an agreement that permits the Town of Lima to assign its easement interest to another party. The village requested same. Said Agreement is below. Upon motion by Councilperson Gardner to approve and sign said Agreement, seconded by Councilperson Mayer, the vote went as follows:

CARRIED           Ayes: 5       Falk, Gardner, Mayer, Marcellus, Carey  
                          Nays: 0

**NON-EXCLUSIVE ASSIGNMENT OF  
PERMANENT EASEMENT FOR UTILITIES  
AND GENERAL MUNICIPAL PURPOSES**

**THIS AGREEMENT**, made this 3rd day of December, 2019 by and between the **TOWN OF LIMA**, a municipal corporation with an office address of 7329 East Main Street, Lima, New York 14485, and the **VILLAGE OF LIMA**, a municipal corporation with an office address of 7329 East Main Street, Lima, New York 14485,

**WHEREAS**, the Town of Lima is the grantee of a Permanent Easement for Utilities and General Municipal Purposes dated February 23, 2016, by which David Wilbur and Beverly Wilbur conveyed to the Town of Lima said permanent easement for general municipal purposes by instrument recorded in the Office of the Livingston County Clerk in Liber 1278 of Deeds at page 420; and

**WHEREAS**, said recorded easement encumbers the area which includes the land and parcel commonly known as 6691 West Main Road in the Town of Lima, and more specifically the portion of said parcel fronting upon West Main Road to a depth of thirty (30) feet, together with an additional temporary work easement area being ten (10) feet in width adjoining to the north of the permanent easement; and

**WHEREAS**, said recorded easement specifically authorizes and permits the Town of Lima to assign its easement interest in the easement premises to another party; and

**WHEREAS**, the Village of Lima has undertaken to install a water transmission line extending from the west line of the Village bounds at the north line of West Main Road westerly and generally along and following the north line of West Main Road to the point where the west line of the Town of Lima and the east line of the Town of Avon

meet at West Main Road; and **WHEREAS**, the Village of Lima has requested that the Town of Lima assign to the Village of Lima its easement in and to the premises commonly known as 6691 West Main Road, and also known as tax identifier map parcel number 36. - 2 - 72.12, now owned by MARTIN HOTALING, to the Village of Lima for purposes of authorizing the Village of Lima's water line construction within said easement area; and

**WHEREAS**, the Town of Lima is willing to assign to the Village of Lima a *non-exclusive easement interest* in and to the easement area located on the premises at 6691 West Main Road, such that the Village of Lima shall have the right to install, maintain and service its water transmission line in said easement, acknowledging that the Town of Lima shall at all times retain the right to use said easement area for its own purposes as provided in the recorded easement agreement;

**NOW, THEREFORE**, in consideration of the exchange of One and No/100 Dollars (\$1.00) lawful money of the United States, the receipt of which is hereby acknowledged, together with other good and valuable consideration, the Town of Lima by these presents does grant and release to the Village of Lima, and to its assigns, as grantees, a non-exclusive permanent easement to construct, alter, repair and maintain any public utility conduit or line, including but not limited to its water transmission line or conduit along and across the property of **MARTIN HOTALING**, fronting upon the north line of West Main Road in the Town of Lima, said easement area being more particularly bounded and described as follows:

**PART OF ALL THAT TRACT OR PARCEL OF LAND**, situate in the Town of Lima, County of Livingston and State of New York, being part of premises conveyed to **MARTIN HOTALING** by deed recorded in the Office of the Livingston County Clerk on

April 25, 2016 and indexed in Liber \_\_\_\_ of Deeds at page \_\_\_\_, said **specific area of the easement to be conveyed herein is defined as the area which is of a uniform thirty (30) feet in width throughout, adjacent to the north line of the public right-of-way of West Main Road, as shown on a map filed in the Office of the Livingston County Clerk on April 5, 2016 and indexed as Map No. AO 9713.**

Being **part of** the premises known as **tax identifier map parcel numbers 36. - 2 - 72.12.**

The Town of Lima, as Grantee, shall retain all of the rights to which it is entitled by virtue of the recorded easement document; the Village of Lima shall have the coextensive right to use such easement area for municipal purposes, including the installation of a water line.

The Village of Lima, as Grantee, shall repair any damage to the easement lands caused by Grantee in connection with Grantee's installation of any new utility line or related construction undertaken by Grantee or its assigns for and on behalf of Grantee, provided however, that Grantee shall not be responsible or held liable for any damage that may be occasioned upon the easement premises due to the necessary removal of any tree or woody shrub or bush.

This agreement shall be recorded in the Office of the Livingston County Clerk in order to memorialize the conditions and terms of the non-exclusive assignment of the Town of Lima's easement to the Village of Lima. This agreement may not be modified by any party except by written agreement signed by all of the parties hereto, which said written agreement is to be acknowledged and recorded in the Office of the Livingston County Clerk. The benefits and burdens of this agreement are intended to extend so as to benefit the successors and assigns of both parties.

**IN WITNESS WHEREOF**, the Grantor and Grantee have executed this instrument this day of \_\_\_\_\_, 2019.

**VILLAGE OF LIMA**

By:  
Carl Luft, Mayor

**TOWN OF LIMA**

By:  
Michael Falk, Supervisor

STATE OF NEW YORK )  
COUNTY OF LIVINGSTON )ss:

On this \_\_\_ day of \_\_\_\_\_, 2019, before me, the undersigned, a notary public in and for said state, personally appeared **CARL LUFT**, as Mayor of the Village of Lima, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledgment to me that he executed the same in his capacity and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK )  
COUNTY OF LIVINGSTON)ss:

On this \_\_\_ day of \_\_\_\_\_, 2019, before me, the undersigned, a notary public in and for said state, personally appeared **MICHAEL FALK**, as Supervisor of the Town of Lima, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledgment to me that he executed the same in his capacity and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

**Sidewalk Path to Honeoye Falls**

Falk mentioned discussion with CPL is looking into design which would extend the path from Bristol ID to the corner of Heath Markham Road and that the Town is minus one easement. Discussion was held and agreed to have the

mark-out of the easement and possibly get approval from the State to fill-in the ditch for public safety which would allow the sidewalk to run through this particular properly. Keith will work on this.

### **Agreement to Spend Highway Funds**

Superintendent Arner requested board approval to spend highway funds for 2020. Upon motion by Councilperson Gardner to sign the Agreement below, seconded by Councilperson Mayer the vote went as follows:

CARRIED            Ayes: 5        Falk, Gardner, Mayer, Marcellus, Carey  
                         Nays: 0

Pursuant to the provision of Section 264 of the Highway Law, we agree that moneys levied and collected for the repair and improvement of highways, and received from the state for the repair and improvement of highways, shall be expended and improvement of highways, and received from the state for the repair and improvement of highways, shall be expended as follows:

1. GENERAL REPAIRS. The sum of \$154,500.00 may be expended for general repairs upon 38.48 miles of town highways, including sluices, culverts and bridges having a span of less than five feet and boardwalks or the renewals thereof.
2. IMPROVEMENTS. DB5112.2 The following sums shall be set aside to be expended for the improvement of town highways:
  - a. Starting on York Street and going westerly on Bromley Road to Cul-De-Sac, a total of .28 miles and on Clay Street starting at Town Line Road and going to Briggs Road – a distance of .6 miles \$95,000.00 will be spent on improvements.

No moneys set aside for such improvements shall not be expended, nor shall any work be undertaken on such improvements until the Town Superintendent approves the plans, specifications and estimates for such construction.

This agreement shall take effect when it is approved by the Town board.  
Executed in duplicate this 3rd day of December, 2019.

**Budget Transfers Needed**

Supervisor Falk requested approval of the below transfers. Upon motion by Councilperson Gardner to approve said transfers, seconded by Councilperson Carey, the vote went as follows:

CARRIED           Ayes: 5       Falk, Gardner, Mayer, Marcellus, Carey  
                          Nays: 0

Transfer from

A 1410.4 Clerk Contractual

To

A1355.1A Assessor Clerk Services \$2000.00 catch up of vacation pay

A1410.1A Deputy Town Clerk Services \$422.61 catch up of vacation pay

Transfer from

A8810.2 Cemetery Equipment

To

A8810.1 Cemetery Personal Services \$500.50 overage for cemetery mowing

Transfer from

B8510.4 Community Beautification

To

B7110.1 Parks Services \$50.50

B7110.4 Park Contractual \$1056.09 Village crew salaries and benefits share

B8010.4 CEO Contractual \$269.99 Phone bills

B9055.8 Disability \$15.60

**Reappointment to Traffic Safety Board**

Falk mentioned the reappointment of Councilperson Mayer to the Traffic Safety Board. Mayer agreed. Upon motion by Councilperson Marcellus to appoint Mayer as liaison to the Traffic Safety Board, seconded by Councilperson Carey, the vote went as follows:

CARRIED           Ayes: 5       Falk, Gardner, Mayer, Marcellus, Carey  
                          Nays: 0

### **Boiler Repair at Town Hall**

Falk mentioned the boiler plate will be replaced as the last plate melted. The cost will be \$2,100.00. He also mentioned it is very difficult, and may soon be impossible; to get parts for this boiler and the boiler is not that old.

### **Town Hall – Front of Building**

Falk mentioned engineer, Parlavecchio of Clark Patterson Lee, looked at the core samples drilled from the front of Town Hall and found asbestos in the stucco. Bids are currently out to determine cost of removal. No bids have been received at this time.

### **Ethical Question**

A question was raised as to whether a conflict of interest arises when an existing Planning Board member's spouse gets elected to the Town Board. Campbell indicated that after researching Article 18 of the General Municipal Law and other statutory authority and opinions from the Attorney General's Office, no conflict exists in such a scenario so long as the Town Board member does not participate in Town Board decisions relating to the compensation of the Planning Board member spouse.

Upon motion by Councilperson Mayer to adjourn at 7:00 PM, seconded by Councilperson Carey, the vote was unanimous.

Respectfully Submitted by:

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Jennifer Heim, CMC/RMC  
Town Clerk

All reports mentioned in the Town Board Minutes can be reviewed at the Town Hall.