

## 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 **6th day of August 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, Dan Marcellus  
Councilperson, Bruce Mayer  
Town Clerk, Jennifer Heim  
Town Attorney, James Campbell

**EXCUSED:** Highway Superintendent, Keith Arner

**Guest(s):** Darrin McCormick, Jana McCormick, Jeff Endicott, Jane Endicott, Leta Button, Robert Reinholt, Elwood Simmons, Ron Blodgett & Mark Spezzano.

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

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

### **Open Public Hearing \*\* New Rates to Begin January 2020\*\***

Falk opened the public hearing regarding water rate increases. Jeff Endicott in district #1 and Robert from Meadowlark Manor, in District #2 asked why such a rate increase again. Falk explained we received rate increases from the City of Rochester and need to pass this increase along. Districts #1 and #3 will increase \$.05 cents, a new charge of \$6.05 per 1000 gallons used. Monroe County Water Authority increased by \$.60 cents for Districts #2 and #4, a new charge of \$6.60 per 1000 gallons used. Endicott asked if the fees will ever be

lowered. Falk explained once the reserves are adequate the Town should be able to reduce meter size charges. Robert asked if our Town was the highest for water fees. Falk explained that Caledonia is higher.

### **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, Carey, Marcellus, Mayer  
                          Nays: 0

### **July 2nd Town Board Minutes**

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

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

### **Audit of Claims/Abstracts**

Resolved that the bills contained on Abstract #8 have been reviewed by the Town Board and are authorized for payment in the following amounts:

General Funds:	No. 230 through 264	\$24,042.31
Water Funds 1, 2, &3:	No. 25 through 29	\$ 4,097.46
Highway Funds:	No. 100 through 119	\$11,550.18

On a motion by Councilperson Gardner, seconded by Councilperson Marcellus, the vote went as follows:

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

### **Building Inspector/Code Enforcement Officer Report**

Charlie Floeser discussed his report.

### **Town Water Report**

Supervisor Falk discussed the water report prepared by Highway Superintendent Arner. In District #1 the sample was negative, no meter issues or changes. District #2, ongoing issue with Meisenzahl. Arner mentioned setting up a meeting with Ti Sales. They are also looking at county meters. They have drive-by readers and do billing for Livonia and Geneseo.

No other repairs. Arner is working on meter replacement project, possibly purchasing meters from the County. District #3 no issues or problems. District #4 has started 2 houses.

### **Industrial Hemp Farming**

Darren McCormick explained the hemp growing on their property is for a company called Best Oil. There is presently 2.5 acres planted and should be harvested mid-September. Best Oil is certified to grow hemp in Lima and Richmond. Ron Blodgett, Jr., from the Agriculture Advisory Committee, and lives down the street from the hemp asked what the hemp will be used for and how it would be processed to extract the CBD oil. McCormick was not certain of the process and explained some medicinal uses for the oil. Mark Spezzano is supportive of the growing next to his house but asked if the Town, going forward, plans to place restrictions for the growth of marijuana in the Town code because if it becomes legalized. Gardner mentioned that at this time there is no permit for growing corn, soy beans, etc., in the state. Gardner stated in 2017 the state made a determination that industrial hemp, like corn, soybeans and other items grown on a farm is included in the Ag and Markets law. She said this is an agricultural crop and as such has the right to grow that crop with a license and to treat one crop differently from another crop would be frowned upon. Attorney Campbell said the Ag and Markets law does not preempt by local legislation and a good measure of local legislation becomes ineffective as a result of the Ag and Markets rules and regulations and we do not know what position the state might ultimately take if they do legalize marijuana and the growing of same. Campbell said the town and its residents need to keep their eyes and ears open as this develops in order to react but we cannot be proactive as this is a completely new industry that might become legitimized for the first time in New York. Campbell said this discussion should be periodically revisited as the changes occur.

### **Communications**

Letter received from Donna Clark. After discussion the board agreed to take no action.

### **Village Water Project**

Falk mentioned the Village water project is moving forward slowly. A bond anticipation note may be there next step.

### **Hazardous Materials Study**

Hazardous materials assessment of the building came back. The Town Hall has asbestos caulk and pipe coverings in the basement. There is also a high level of radon in the basement. The board agreed to retest the radon in a month; if this does not work fans will then need to be purchased to remove the radon. The front of Town Hall will have the paint removed and revisit in the spring to determine whether to repaint or treat the front of the building as there is a moisture problem that is not allowing the paint to stick. Falk will call Clark Patterson Lee to get pipe asbestos removal quotes. The board agreed to leave the caulk at this time until such time as the windows are repaired.

### **Complaint Form**

Discussion was held by the board to make changes to the complaint form Building Inspector Floeser prepared, as well as possibly add procedural steps. Attorney Campbell said the town has to make sure that either the individual completing the form and potential violator are treated equally. This may be done by following the criminal procedural law to avoid creating any inconsistencies. Floeser said the majority of people just call in their complaints and he completes the form. Campbell said he will work on a few forms and email them to Floeser. The board will review the form with changes at the September meeting.

### **Proposed Moratorium on Large Scale Battery Energy Storage Systems**

Attorney Campbell emailed a draft Local Law #3 of 2019 titled a local law establishing a temporary land use moratorium prohibiting large scale battery energy storage system installations within the Town of Lima. Falk and Campbell decided to continue with the local law after attending a seminar held by the County with an attorney who specializes in renewable energy, including article 10. After discussion with this attorney who stated there has been significant development with this industry in the last few months to incorporate some changes in the code having restrictions on large scale battery energy storage systems. Councilperson Gardner made a motion, upon a few paragraph changes: First, to remove the line saying "The Town Board has directed the Town Attorney to assist in this endeavor" and second, changing the language in the sentence that reads -making a more general statement - "during the pendency of the moratorium, the Town Board will consider how best to permit such installations so as to harmoniously integrate such installations with the existing agricultural community and landscape and to mitigate potential undesirable environmental impacts that may be

associated with such use". After changes are made, Campbell will send out to the board, same will be sent to the County Planning Board and a public hearing will be held at the next meeting, seconded by Councilperson Marcellus the vote went as follows:

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

### **Proposed Local Law - Attorney Fee Recovery**

Attorney Campbell looked at several different communities for a fee structure that allows recovery of professional services by Town Attorney Campbell, engineers, consultants, etc., during an application to the Planning or Zoning Board. This new proposed local law will allow the Town of Lima to collect a retainer upfront to cover professional services during an application process to avoid trying to recover fees later if a project is not completed. Upon motion by Councilperson Mayer to hold a public hearing at the September 3<sup>rd</sup> meeting, seconded by Councilperson Gardner, the vote went as follows:

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

Campbell will check with Heather Ferrero, Deputy Planning Director of the County Planning Board for approval as well.

### **Health Insurance Rates**

Falk met with Bill Carson, Benefits Consultant for Bond Financial. Falk mentioned MVP has higher rates for essentially the same benefits provided by Excellus, simply blue gold 5, who the town currently uses. After discussion a motion by Councilperson Gardner, seconded by Councilperson Mayer, to offer the current health care plan costing \$621.64 paid by the town and any other health care plan options listed. If an employee chooses the simply blue bronze plan at \$375.56 they can open a health care savings account and deposit the difference from the \$621.64. If an employee chooses the more expensive plan of \$724.10 they are responsible for the increase. Falk will work with Clerk Heim to setup a meeting.

### **2017 Audit**

Falk distributed results of the audit and would like to correct recommendations and suggestions found on same that have not yet been corrected. Falk asked who would be executing the annual audit of the court. Councilperson Carey and Mayer will take on the court findings and amend any

procedural items listed. The board agreed to have an audit completed every 2 years as well as go out to bid for an auditing company to keep costs down.

Upon motion by Councilperson Gardner to adjourn at 8:15 PM, seconded by Councilperson Marcellus, the vote was unanimous.

Respectfully Submitted by:

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Jennifer Heim, CMC/RMC  
Town Clerk

- Public hearing did not close. Will be closed at the joint Village and Town meeting on August 28<sup>th</sup>.

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