

TOWN BOARD

COUNTY OF ALBANY

TOWN OF COLONIE

\*\*\*\*\*

AGENDA SESSION

\*\*\*\*\*

THE STENOGRAPHIC MINUTES of the above entitled matter by NANCY L. STRANG, a Shorthand Reporter, on July 11, 2019 6:12 p.m. at Memorial Town Hall 534 Loudon Road, Newtonville, New York 12128

BOARD MEMBERS:

- PAULA A. MAHAN, SUPERVISOR
- LINDA MURPHY, DEPUTY SUPERVISOR
- PAUL ROSANO
- DAVID GREEN
- CHRISTOPHER CAREY
- MELISSA JEFFERS-VONDOLLEN
- JENNIFER WHALEN

ALSO PRESENT:

- Michael C. Magguilli, Esq. Town Attorney
- Julie Gansle, Town Clerk
- Rosemary Newton, Director, Human Resources
- Crystal Peck, Esq. Bailey Johnson & Peck
- John Cunningham, Commissioner, DPW

1 MR. MAGGUILLI: We're going to start out with a  
2 number of personnel matters.

3 The first is we are promoting Ray Merolle to Senior  
4 Public Works Operations Tech. At \$79,984 starting July  
5 12.

6 Resolution 311B is as a result of an arbitration  
7 decision. We are appointing John Macduff to the position  
8 of Water Maintenance Worker. He was a Working Foreman.  
9 There was a grievance filed by a person who thought he  
10 was more qualified.

11 Rosemary?

12 MS. NEWTON: There was a person who believed they  
13 were more qualified and he did have more time on the  
14 job he didn't get selected for this promotion and the  
15 Town interviewed and made a selection based on what we  
16 thought were very valid reasons. He went and he grieved  
17 it and we just got a bad decision. The arbitrator  
18 believed that we didn't give enough weight to the  
19 factors that were listed in the contract.

20 MS. MURPHY: That doesn't happen very often. I  
21 don't think I ever have seen that before.

22 MR. GREEN: What does that do for the rest of the  
23 department and their morale?

24 SUPERVISOR MAHAN: They understand they have no  
25 choice. It's the arbitrator and we had to adhere to

1 that. I talked to some of them. They understand.

2 Obviously, it's an unfortunate situation, but the  
3 arbitrator made that decision based on believing what  
4 he saw or read from the past. You would think that it  
5 would go just on the interview and everything is self.

6 MS. MURPHY: What about the person that lost out  
7 on the job?

8 MR. MAGGILLI: For dealing with him a little bit  
9 later in here.

10 SUPERVISOR MAHAN: He's gonna go back to a  
11 Maintenance Supervisor. He's very qualified for the job  
12 that he was offered. So, hopefully there are always  
13 people retiring in whatever. So, if someone retires,  
14 then he can have another opportunity. Right now, we  
15 have to abide by the arbitrator.

16 MS. WHALEN: Who represented us, Rosemary?

17 MS. NEWTON: Roemer's office.

18 MS. WHALEN: Do we have a written decision?

19 MS. NEWTON: Yes.

20 MS. WHALEN: Can I get a copy of it?

21 MS. NEWTON: Sure.

22 SUPERVISOR MAHAN: I don't think I have ever seen  
23 that.

24 MS. MURPHY: I know I haven't.

25 MS. NEWTON: There was one prior to your

1 administration. It was in the Water Department, as  
2 well. I don't know the date. It was prior to 2008.

3 MS. WHALEN: What were the damages, if any, other  
4 than reversing the appointment decision? Were there any  
5 monetary fiscal penalties?

6 MS. NEWTON: The only monetary issue is getting  
7 the pay that he would've gotten as the Working Foreman.  
8 That goes back to August 2018 when the original  
9 appointment was made.

10 MS. WHALEN: How much is that?

11 MS. NEWTON: We are still in the process of  
12 calculating it. We are looking at the overtime. I think  
13 the actual rate for the regular 40 hour week was about  
14 a \$7,000 difference. Then, we have to look at overtime,  
15 as well.

16 MR. CAREY: Were you at the arbitration?

17 MS. NEWTON: Yes.

18 MS. WHALEN: Does the other gentlemen have to pay  
19 back his - the other employee.

20 MR. MAGGILLI: No, he did the work.

21 MS. MURPHY: So, if two people are applying  
22 and they choose someone and the other person thinks he  
23 is more qualified, they can continue to pursue that?

24 MS. NEWTON: When they try to bring a grievance,  
25 the union will will say can you let them come in and

1 kind of speak their piece and maybe they didn't  
2 adequately represent themselves in their interview.  
3 That's usually where it ends. So, this was a surprise.

4 MR. MAGGUILLI: Typically who is the best  
5 candidate for a job is management prerogative - it's  
6 under management discretion.

7 SUPERVISOR MAHAN: The whole thing is weird.

8 MR. MAGGUILLI: I've never seen anything like it.

9 MR. GREEN: Was Roemer's fee part of our retainer?

10 MR. NEWTON: There was an extra cost. I'll get  
11 back to on that.

12 MS. WHALEN: You let us know what the fee was,  
13 too, and the restitution and what the damages are?

14 MS. NEWTON: Yes.

15 MR. GREEN: We don't have a choice, right?

16 MS. NEWTON: No.

17 SUPERVISOR MAHAN: When you fight it, you lose and  
18 it is worse. The person that is moving back down is  
19 being very responsible.

20 MR. GREEN: I hope he just doesn't cause the  
21 domino effect.

22 MS. MURPHY: Exactly. When people see that it  
23 works by doing that -

24 SUPERVISOR MAHAN: That's why it's the weirdest  
25 thing I have ever seen.

1 MS. WHALEN: Did the party agree to have a union  
2 attorney, or did they have a private attorney?

3 MS. NEWTON: The person who brought the grievance  
4 had a union attorney.

5 MR. MAGGUILLI: Resolution 311 C is permanently  
6 promoting Thomas Edwards to the Working Foreman  
7 Position. He is going to essentially replace Brian  
8 Sarkissian.

9 Resolution 311 D is appointing Marc Poskus to the  
10 position of EMT. He is filling Haley Smith's position;  
11 \$39,980.

12 Resolution 311 E is appointing Daniel Sullivan, Jr.  
13 to EMT. He is replacing Bryce Fago.

14 Resolution 311 F is reinstating Edwin Russell as a  
15 part-time Paramedic in the Emergency Services  
16 Department. This is a retirement and reinstatement.

17 Resolution 312 is the public hearing continuation  
18 on the Comprehensive Plan update.

19 SUPERVISOR MAHAN: This is the last night for  
20 public comment.

21 MR. GREEN: We're going to close it.

22 SUPERVISOR MAHAN: We already did. The last time  
23 we just said working to close it and keep it open just  
24 for the vote. Can we ask only if they have anything  
25 new, because it's the same thing every meeting.

1 MR. MAGGUILLI: At the end, I strongly suggest  
2 that we close the public hearing and then just put it  
3 over for vote for July 25 meeting.

4 MS. WHALEN: Is that the three-minute role that  
5 applies to this?

6 SUPERVISOR MAHAN: No, this is a public hearing.

7 MR. MAGGUILLI: This is a public hearing, so they  
8 can talk as long as they want.

9 SUPERVISOR MAHAN: They might have something new.

10 MR. MAGGUILLI: If you want, that's what I will  
11 announce. If anyone has any new comments not previously  
12 raised -

13 Resolution 314 is a public hearing under 202B of  
14 the Town law. This is for the Albany Shaker Road pump  
15 station rehab project. The public hearing will be on  
16 August 8.

17 MR. CAREY: Did you skip 313?

18 SUPERVISOR MAHAN: Did you skip this public  
19 hearing, Mike?

20 MR. MAGGUILLI: Yes. Mr. Nottke spoke with  
21 Allegra. I have an email from Allegra. Now he wanted to  
22 thank the Town Board for all their efforts in this  
23 regard. He called this afternoon to say thank you to  
24 the Town Board for reconsidering a stop sign at Ace  
25 Place and to thank me for suggesting the adjournment.

1 He cannot attend the Town Board meeting tonight, so he  
2 called to express that he now thinks the stop sign is  
3 better.

4 After speaking with Jack Cunningham and his  
5 neighbor at 21 Sherwood Drive, he has decided to endorse  
6 the stop sign. He is no longer seeking the yield sign.

7 SUPERVISOR MAHAN: He was so nice when we agreed  
8 to make it Ace Place.

9 MR. MAGGUILLI: And we did it even though some of  
10 the neighbors didn't want to.

11 Resolution 314 - - Crystal is here. Crystal, is  
12 there anything you would like to add to this? This is  
13 \$998,200.

14 MS. PECK: No. That's about it. They like to do  
15 more, but they're out of money.

16 MR. MAGGUILLI: That's 4,900 lineal feet of sewer  
17 pipe and restoring more than 18 manholes.

18 Resolution 315 is a payment out of our tort reserve  
19 fund at \$751.25 to the Laguire shorthand reporter. This  
20 is for a deposition of an examination before trial.

21 This is the matter with a woman claims that a tree  
22 owned or controlled by the Town fell on her and injured  
23 her. Rebecca is handling that in-house.

24 Once the deposition is done, her attorneys are  
25 ready to file a Note of Issue. I will keep you informed

1 as to the progress of the trial. I'm not recommending  
2 any kind of settlement.

3 MR. GREEN: Where did this occur?

4 MR. MAGGUILLI: I don't remember. I can't remember  
5 the name of the street. The tree was in a Town  
6 right-of-way.

7 MR. CUNNINGHAM: I believe it was over on  
8 Onderdonk.

9 MR. MAGGUILLI: Resolution 316 is settling a tax  
10 cert case. This is for 5 Greystone Road. The reduction  
11 is \$101,200 under the settlement that was agreed to by  
12 the school district, as well. It will result in \$560  
13 refund by us; \$2,633 for the school district.

14 Resolution 317 is awarding the contract to the low  
15 bidder, Gallo Construction. This is for the base bid of  
16 \$451,200 plus alternate number one of \$9,400. This is  
17 for the library renovation project phase 2.

18 Resolution 318 is a sole bitter situation. We had  
19 advertised for bids for the purchase of water meters and  
20 water meter reading system parts for this year. We  
21 received one bid from Ti-Sales in the amount of \$906.09.

22 Resolution 319 is reimbursement for overestimated  
23 water usage charges. The winner this week is \$10,143. I  
24 think we've done one for \$14,000. Thank you Nicholas and  
25 Sarah for the interest free loan.

1 MR. CAREY: That's the person that sent us the  
2 email that talked about the 10% penalty; is that  
3 correct?

4 MR. MAGGUILLI: I'm not sure. I do remember that.

5 MR. CAREY: John Frazer responded to that person.

6 MR. MAGGUILLI: It doesn't ring a bell with me.

7 MR. CAREY: Are they still subject to a 10%  
8 penalty? It was an email.

9 MR. MAGGUILLI: Let's see if there's anything in  
10 the file.

11 SUPERVISOR MAHAN: Remember something about that.  
12 There was also -

13 MR. CAREY: Because the person talked about an  
14 email that they did get the reimbursement that was  
15 approved, but they were upset over the fact - - because  
16 isn't there a penalty attached to this?

17 MR. MAGGUILLI: It looks like on her claim, she  
18 wrote a note on the claim form that said I have no way  
19 to know if this amount is correct. I just hope the 10%  
20 fee added to my Town taxes are included on the overage  
21 amount.

22 MS. WHALEN: She must not have filled out the card  
23 and got overbilled maybe?

24 MR. MAGGUILLI: That's what happens.

25 SUPERVISOR MAHAN: Yes, she didn't fill out the

1 card so they have to estimate.

2 MS. WHALEN: I think they pay a penalty, too.

3 MR. CAREY: Well, John responded to the email.  
4 I'll think it required a response.

5 SUPERVISOR MAHAN: I'm sure they're probably  
6 putting one on the outside of the house soon.

7 MR. MAGGUILLI: Resolution 320 is authorizing Doug  
8 to advertise for bids for a new pavilion at the Mohawk  
9 River Park on Schermerhorn Road.

10 SUPERVISOR MAHAN: This is the one with the grant.  
11 This is going to be for Easter Seals camp. It came in  
12 really really high. So, were going to try rebidding it  
13 and see what we get.

14 MR. MAGGUILLI: Our tax department downstairs is  
15 squeezed for space. So, Resolution 321 is engaging the  
16 services of Syversten Rigosu Architects.

17 MS. WHALEN: Is this the assessors and collectors?

18 MR. MAGGUILLI: They're going to look at the whole  
19 first floor.

20 SUPERVISOR MAHAN: This is more for security.

21 MR. MAGGUILLI: And space. I thought it was both.

22 SUPERVISOR MAHAN: They might have to do some  
23 rearranging. If they do, it depends on what comes back.  
24 We really don't know. The going to look at - - they  
25 have to look at the whole first floor.

1 MR. MAGGUILLI: Resolution 322 is a contract with  
2 System Development Group Inc. This is for our Town  
3 image software. This is a subscription renewal for  
4 \$3,000 from July 1, 2019 to June 30, 2020.

5 Resolution 323 is awarding the bid to the low  
6 bidder, Eckert Mechanical. This is the gasket  
7 replacement project. The total amount is \$9,440.

8 Resolution 324 is requiring the Planning Board to  
9 review and consider the proposed amendment of the  
10 Shelter Cove Plan Development District. The people at 31  
11 Preston Drive and 41 Preston Drive want to add a shed in  
12 their backyard. In order to do the shed, they have to  
13 amend the PDD legislation.

14 Resolution 325 is an agreement with New York State  
15 Governor's Traffic Safety Committee. This is for a grant  
16 in the amount of \$35,400. This is for the Police  
17 Department - participation in police traffic services  
18 program.

19 I must tell you that there is a term in this grant  
20 in this contract and for whatever reason - - we are not  
21 supposed to make any type of public announcement with  
22 respect to this grant application and award. Why the  
23 state government doesn't want us to make any kind of  
24 public statement or comment, is beyond me. We have to do  
25 this because they need the agreement signed and we need

1 the Resolution to sign the agreement. Beyond that, I  
2 would suggest that to be in compliance we not discuss it  
3 any further which put me in a bit of a dilemma. What  
4 happens if I get a FOIL request? If I get a FOIL request  
5 for this thing, am I supposed to deny it because the  
6 Governor's office? Just so you know, that term is in the  
7 grant agreement. This is for the Police Department - for  
8 them to do traffic safety compliance deals in is paid  
9 for by the State of New York.

10 MS. WHALEN: Have you ever seen such a term in a  
11 grant agreement before? Have you ever seen anything  
12 like that?

13 MR. MAGGUILLI: No, I've never seen a grant  
14 agreement like this one before.

15 MS. WHALEN: It's probably not enforceable and  
16 against public policy anyway. I wouldn't worry about it  
17 because even if they went after us, they're going to  
18 lose on that.

19 MR. MAGGUILLI: I would be remiss if I didn't  
20 bring it to your attention.

21 Resolution 326 is a late starter. What we have is  
22 when we were doing this repair work, it was determined  
23 that a new traffic light foundation is in conflict with  
24 the location of the sewer main to be repaired. So, in  
25 order to do this work, we have to give the contract to

1 the low bidder, Arold Construction for \$47,500. That's  
2 all it got.

3 SUPERVISOR MAHAN: Okay, we're just going to have  
4 a quick announcement on the hydroelectric power that we  
5 just went to yesterday.

6 When we do personnel, Peter, you're going to come  
7 up and say a few things and then we'll do the public  
8 hearings. Then we'll do public comment and on the  
9 Resolutions.

10 (Whereas the above entitled proceeding was  
11 concluded at 6:58 p.m.)

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## CERTIFICATION

1  
2  
3 I, NANCY L. STRANG, Shorthand Reporter and Notary  
4 Public in and for the State of New York, hereby CERTIFY  
5 that the record taken by me at the time and place noted  
6 in the heading hereof is a true and accurate transcript  
7 of same, to the best of my ability and belief.

8  
9 \_\_\_\_\_  
10 NANCY L. STRANG

11  
12  
13 Dated \_\_\_\_\_  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25