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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 commencing on February 27, 2020 at 6:00 p.m. at Memorial Town Hall, 534 New Loudon Road, Latham, New York

BOARD MEMBERS:

- PAULA MAHAN, SUPERVISOR
- LINDA MURPHY, DEPUTY SUPERVISOR
- MELISSA JEFFERS-VONDOLLEN
- RICK FIELD
- JILL PENN

ALSO PRESENT:

- Michael C. Magguilli, Esq, Town Attorney
- Julie Gansle, Town Clerk
- P. Christopher Kelsey, Acting Comptroller
- Chris Kostyun, Chief, EMS
- Ryan Bailey, Esq., Bailey Johnson and Peck

1 MR. MAGGUILLI: David Green and Danielle Futia
2 are absent this evening.

3 Resolution 134 a is permanently appointing
4 Maxwell Bird to Water Maintenance Worker, Grade 8 in
5 the DPW. He's the filling the vacancy created by John
6 McDuff when John left; \$24.83 an hour. He will start
7 tomorrow.

8 Resolution 134B is appointing Alexander Boyd
9 as our Highway Maintenance Worker, Grade 8. He is
10 filling Stephen Causey's position. It's \$19.86 an hour
11 and he will start on March 7.

12 Resolution 134C is provisionally appointing
13 William Shipley. He's going to be a Vehicle
14 Maintenance Supervisor, Grade 15 earning \$73,785
15 starting tomorrow. He is filling the vacancy of Mike
16 Ruggiero.

17 Resolution 134D is permanently appointing
18 Christopher Goes as a part-time EMT. He will be
19 earning \$19.61 an hour starting March 2. He is taking
20 Sean Higgins' place.

21 Resolution 134E is permanently appointing
22 Andrew Biance as an EMT. Andrew is taking the place of
23 John Schultz who resigned; \$19.61 an hour starting
24 March 2.

25 Resolution 134F is permanently appointing

1 Natalie Buchanan as an EMT part-time; \$19.61 an hour
2 starting March 2 and she is replacing Joe Gerace.

3 Finally we have a Resolution permanently
4 appointing Ashley King as a part-time EMT; \$19.61 an
5 hour starting March 2 and she is filling Kyle
6 Molesky's place.

7 Chris, is there anything else you'd like to
8 add to that?

9 MR. KOSTYN: No, it's just back fills to
10 eliminate or reduce our overtime and have more folks
11 available. We're not adding bodies to the street.

12 MR. MAGGUILLI: Resolution 135 - back on
13 February 6 we passed a Resolution calling for a public
14 hearing tonight. This is on the 168th extension of the
15 Latham Water District. This is \$12,350 which will be
16 paid through tax assessments on the lots.

17 Mr. Bailey is here to speak on the public
18 hearing.

19 Anything you would like to add?

20 MR. BAILEY: No.

21 MR. MAGGUILLI: Resolution 136 is calling a
22 public hearing for our March 26 Board meeting at 7
23 o'clock. The owner of 21 Green Mountain Drive wants to
24 build a sewer improvement project extending municipal
25 sewer service to 21 Green Mountain Drive. The cost is

1 \$17,872 that will be paid for directly by the developer.

2 Resolution 137 is the companion escrow
3 Resolution authorizing Paula to sign the escrow
4 agreement to ensure payment and compliance by the
5 owner.

6 Resolution 138 authorizes payment from our
7 insurance reserve fund of \$4,100. This is to Clough
8 Harbor and Associates on the Fusco case. We have
9 designated Clough as our expert. This will probably go
10 to trial some time in May or may be early June. This
11 is the slippery slope case where there claiming that
12 our Highway Maintenance Workers destabilized the slope
13 behind Mr. Fusco's property. We have been litigating
14 this for the last two years and there is a demand of
15 about \$2 million. We naturally rejected that. We have
16 to have an expert. This is probably the first of a
17 number of bills on this. We have no choice. We have to
18 have an expert.

19 Resolution 139 is referring to the Planning
20 Board the review and to make a recommendation to the
21 Town for an open development area located at 8t
22 Everett Road Extension. This is the property behind
23 the Zaloga Post.

24 You need an open development area whenever a
25 parcel of land that a person seeks to develop does not

1 have direct access to a public road.

2 The way this lot is set up - I don't know why
3 they did it this way, but looking at the picture of it
4 you would think it would have access on four sides.
5 The lot line actually ends about 20 feet in from the
6 road. I've never seen anything like it before, but you
7 need a minimum of 80 feet of road frontage. If you
8 don't have it, like this lot does not, you need
9 approval from the Town Board to build. That's what
10 this is about.

11 Resolution 140 is under 219 a of the General
12 Municipal Law. As you can see, I passed around the
13 blue sheet. This is for the Fuller Road Fire
14 Department. This certifying which of their volunteers
15 qualify for service award in 2019.

16 Resolution 141 is authorizing Paula to sign
17 an agreement with Joe Mastroianni. This is a four-year
18 agreement and this is for our Section 8 housing
19 assistance voucher program. We have been contracting
20 with Mr. Mastroianni for as long as I've been here.

21 Resolution 142 is referring to the Planning
22 Board a proposed amendment to the Beltrone Living
23 Center planned development district. What they're
24 looking to do is merge two lots; 6 Winners Circle and
25 6A Winners Circle. Because it is a planned development

1 district, they need Town Board approval. We have to
2 amend the Local Law that creates the district. I
3 assume this is because they intend to do more
4 development on the property sometime in the future.

5 Resolution 143 is authorizing Paula to enter
6 into an agreement with the American Red Cross. This is
7 for the 2020 Learn to Swim Program. This is a
8 long-standing program we have had with the Town. In
9 prior years we've paid \$200 and that only covered 75
10 participants. This year we are paying \$300 that will
11 cover up to 500 participants. I guess the program has
12 become very popular. So, we negotiated the new
13 agreement.

14 Resolution 144 is a maintenance agreement
15 with Hewlett-Packard. This is for the CAD RMS servers
16 at the Police Department. That's for maintenance from
17 February 1, 2020 to July 31, 2020. The total cost is
18 \$2,752.80.

19 Next we have Resolution 145 which is a
20 contract service agreement with Troy Belting. By
21 Resolution 533 that we adopted on December 19 of last
22 year, we authorized expenditures not to exceed \$5,000
23 with Troy Belting. Today, we have used approximately
24 80% of that \$5,000. So, Pure Waters would like to be
25 authorized an additional \$5,000 for future events.

1 Resolution 146 authorizes Doug to advertise
2 for bids for wet well cleaning for Pure Waters.

3 Resolution 147 is change order 1 with our
4 contract with Gross Electric in connection with the
5 Mohawk View Water Treatment Plant Low Lift Pump
6 Station. The original contract amount totaled
7 \$276,000. It turns out that there are certain ethernet
8 switches and ATS duplicators that were needed. So,
9 this is a deduct from \$1,340.

10 Resolution 148 is a contract service
11 agreement with Kamco of New England. This includes
12 labor and materials to replace two metal doors at the
13 low lift pump station. The cost will not exceed
14 \$10,000.

15 Resolution 149 is to approve amendment number
16 1 with our engineering agreement with Clough. This is
17 for the sand/salt shed building at Public Ops. The
18 additional work which includes construction and
19 inspection work and management services shall not
20 exceed \$45,000.

21 Resolution 150 is declaring an emergency with
22 respect to repair and purchase of parts for our fire
23 sprinkler suppression system. We're going to have to
24 add sales tax to this. What this will cover is to
25 mechanics to come in on a Saturday and work up to

1 eight hours each day to replace the defective
2 sprinkler valve.

3 MR. KELSEY: Mike, why would we add sales tax
4 to that?

5 MR. MAGGUILLI: The 776 figure would include
6 sales tax, if any.

7 MR. KELSEY: But we wouldn't pay sales tax,
8 though. We don't pay sales tax.

9 MR. MAGGUILLI: Good, I'm glad. I don't know
10 why they put that in there, but they did. Maybe it's
11 something about the valve.

12 Resolution 151 is requiring the Planning
13 Board to review and consider the proposed rezoning of
14 parcel of land located at 44 Waterford Avenue from
15 single-family residential to multi-family residential.

16 The parcel at 44 Waterford Avenue is owned by
17 Rich Rosetti, Jr. In his letter requesting the zone
18 change, he states that everything around that parcel
19 is multi-family; town houses and the like. He wants to
20 build town houses here, but under our Code townhouses
21 are considered multi-family units. They share a party
22 wall, so they should. He disputes that thinks it
23 should be single-family.

24 I did not want to get into it with him. Just
25 so you know, he has already been to the Zoning Board

1 looking for a use variance. He can't get a use
2 variance because it's a self-created hardship. He knew
3 it was single-family when he bought the lot and under
4 the statute, self-created hardship automatically
5 disqualifies anyone from getting a use variance.
6 Therefore, this is Plan B, apparently, to try to
7 convince us that since everything else is
8 multi-family, why isn't this one?

9 SUPERVISOR MAHAN: Ron Monfil looked up the
10 plot of land and then what was surrounding it. I think
11 they call the townhouses, but they are mostly just like
12 converted into -

13 MR. MAGGUILLI: Apartments.

14 SUPERVISOR MAHAN: Duplexes or something like
15 that and not really townhouses.

16 MR. MAGGUILLI: He has interesting
17 interpretations of many our definitions in many of our
18 laws. This is just referring it to Planning.

19 SUPERVISOR MAHAN: Well, it said it in the
20 letter. I believe it said in the letter that they were
21 all surrounded by townhouses. I couldn't remember
22 townhouses there other than if you got into the
23 Woodlands. I think they may just be homes that were
24 changed into duplexes.

25 MR. MAGGUILLI: When he states is the property

1 consists of approximately 2.35 acres of land located on
2 Waterford Avenue East immediately to the east of the
3 Woodland Apartments. The property is currently vacant
4 land and zoned SFR single-family and does not permit
5 more than one townhome on a parcel. The subject parcel
6 is located in the boundary line between SFR and a
7 multi-family residential district. Then, he includes a
8 map and the like.

9 The Planning Board will have to conduct
10 public hearings on this before they report so we will
11 have a better idea. You always go to look anyway.

12 MS. MURPHY: So, this is just giving us the
13 information to go to the Planning Board.

14 MR. MAGGUILLI: That is correct. You don't have
15 to grant it. We typically do.

16 SUPERVISOR MAHAN: They will review it and then
17 give us a recommendation. I think we need to take a look
18 at what's around the property.

19 MR. MAGGUILLI: That's all I've got.

20 One thing I thought that I should bring to
21 your attention since it affects all Town Board members
22 is that on Friday, February 21 I received a FOIL
23 request from Professor Kevin Bronner. He requests the
24 2018 statement of financial disclosure to the Town of
25 Colonie Board of Ethics filed by every member of the

1 Town Board, every member of the Planning Board, Town
2 Attorney Michael Magguilli, PED director Joseph
3 LaCivita an Operations Director Jack Cunningham which
4 were required to be filed on or before January 31,
5 2019. He also is requesting the 2019 statements of
6 financial disclosure filed by all of us which were
7 required to be filed on or before January 31, 2020.
8 That's just so you know. If anybody have any questions
9 about that, it's public. He is entitled to it.

10 We are backed up to a fare thee well on our
11 FOIL requests. As you know, I'm down one attorney with
12 Allegra going to the state. I miss her greatly. With
13 the computer issues that we had, we don't have access
14 to our old emails. The system is coming back slowly,
15 but when we get a FOIL request, it asked for any and
16 all which typically they do. It would include emails.
17 Right now, nobody has access except Lisa, I suppose.
18 So, we are going to be delayed.

19 What I have instructed Susan to do is to tell
20 - - when you get a FOIL request, we must respond
21 within five days of receiving a request to give an
22 estimate of when we believe we can comply with the
23 request. What I have told Susan to do, at least
24 temporarily, is to advise people look, it's going to
25 be at least two months. We are going to handle them in

1 the order that they came in to be fair. If we can
2 respond to them sooner - - like, this request I think
3 we will be able to because we don't need to go into
4 the computer. We can just make copies of your
5 financial disclosure statements. When this comes up,
6 we should be able to get it right out. I thought you
7 should know.

8 SUPERVISOR MAHAN: In case you don't know,
9 Kevin was a former Town Board Member.

10 MS. MURPHY: At what university is he a
11 professor?

12 MR. MAGGUILLI: University of Albany, I
13 believe. A professor of public administration. If you
14 remember, he he wrote what they call the Bronner Report
15 back in 2007 or 2008 that tried to justify using Town
16 equipment, personnel in materials to pave the West
17 Albany Rod and Gun Club.

18 SUPERVISOR MAHAN: That's what he was claiming,
19 but the State Comptroller did a review of that and it
20 was illegal to do what was done. You can't work on
21 private property. That's the other side.

22 MS. MURPHY: He has a right to ask for
23 financial information?

24 MR. MAGGUILLI: Yes.

25 MS. MURPHY: I would think that would be more

1 private than someone just asking for it.

2 MR. MAGGUILLI: A lot of it will be redacted.
3 Like, they're not entitled to your private phone
4 numbers, Social Security numbers, your home address.

5 MS. MURPHY: Yes, but they have every bit of
6 your financial information.

7 SUPERVISOR MAHAN: He FOILS frequently. He does
8 write a lot of thing about the budget money and things
9 like that. I have invited him in many many times to come
10 and go over the financials. He was actually the liaison
11 to the Comptroller when the Town was basically bankrupt.
12 I invited him to look at everything.

13 MR. MAGGUILLI: Susan is backed up to a fare
14 thee well. She gets these huge FOIL requests from the
15 Save group repeatedly asking for every and all - - which
16 is fine. They are entitled to it. When they do it and
17 then let it sit for a couple of months before they come
18 and pick it up, that kind of fries my cookies.

19 SUPERVISOR MAHAN: Melissa and I were at the
20 Planning Board meeting about the Hoffman project and it
21 did get approval. It's been out there for a while.

22 We met with Amy McCain and Stephen. They came
23 in during the afternoon. They live on Homestead which
24 is a through-street. It's a pretty long
25 through-street. Actually, Joe Grasso and Sean Maguire,

1 Pete Stuto and everyone came so that they could get a
2 more clear picture. We had a good meeting.

3 Actually, they brought up some real good
4 suggestions. We don't know what the end result will
5 be, but we are going to go to the state. Jack is going
6 to call the state to see and look into the right hand
7 turn only again on Homestead and Route 9. That's the
8 way it was. With CVS coming out, if somebody tries to
9 take a left out of CVS and somebody tries to take a
10 left out of - - I don't remember, but I thought it one
11 time there was a traffic signal on Homestead but I
12 could be wrong.

13 MR. MAGGUILLI: The intersection by the bank?

14 No.

15 SUPERVISOR MAHAN: A long time ago. I could be
16 thinking about something else. It's a block by where the
17 Newton Plaza intersection is. They are hard to enforce,
18 but people get used to it - - it could save an accident.

19 Their suggestion was for part of the public
20 benefit instead of going on the west side all the way
21 with the sidewalk, if it's possible - we have to look
22 at the infrastructure in the utilities and everything
23 that is there to do it on the east side; from
24 Homestead to the traffic signal or possibly Stewart's
25 because if anyone is going to walk, that would make it

1 much easier to cross the street. This is a traffic
2 signal by the Schuyler properties. That's where the
3 traffic signal is. That was one suggestion.

4 The other one was to take a look at the
5 intersection the comes onto Homestead and Fiddlers,
6 but also Comly comes in there. It's Fiddlers,
7 Homestead and Comly.

8 MR. MAGGUILLI: Is that where they want the
9 three-way stop sign?

10 SUPERVISOR MAHAN: They all come up that area
11 there. It's like an old intersection that maybe needs
12 something there to slow people down. I don't know if you
13 remember this, Jack, but last year they put in a three
14 way stop down by Skyline.

15 MR. CUNNINGHAM: I don't think that's correct.

16 SUPERVISOR MAHAN: I don't remember anyone
17 talking about that. I will have to take a ride by and
18 see. They were saying we don't know why they put them
19 there.

20 MR. MAGGUILLI: We are limited as to what signs
21 we can put up including stop signs by the New York State
22 Uniform Manual of Traffic Control Devices. That's a big
23 thick book with pictures. We can't violate that.

24 SUPERVISOR MAHAN: There are exceptions because
25 there are stop signs in certain areas. There are

1 exceptions.

2 MS. MURPHY: I think Susan Milstein had a good
3 suggestion in using the mitigation money just for that
4 specific area.

5 MR. KELSEY: It's not a mitigation area; that's
6 the problem.

7 SUPERVISOR MAHAN: It's not mitigation, but it
8 is public benefit money. If you heard Joe Grasso that
9 evening and you heard Pete Stuto, they have just
10 different suggestions that were thrown out there. I
11 heard them clearly. They were talking about the money
12 for the public benefit would go to this area. That is a
13 priority -- if there was anything left over or whatever.
14 The reason Spring Street came up is only because in the
15 past people from East Ridge and East Hills have asked
16 for sidewalks to connect with where Siena is. It's not
17 Siena asking for them, it was the residents there. They
18 have sidewalks down on East Hills.

19 The other was Aviation Drive. That's because
20 there are partial sidewalks that were put in when the
21 Crisafullis put theirs in. That was part of a public
22 benefit. So, wherever there are gaps in the
23 connection, they come up as suggestions.

24 She maybe didn't hear that when they were
25 saying it or maybe didn't understand it. Those were

1 the recommendations that were there so they just kept
2 them all in there, just for transparency purposes that
3 other people had recommended those. She maybe didn't
4 hear what they said or whatever because it's pretty
5 clear that whatever we can do in that area with the
6 money, that's what will be done.

7 MS. MURPHY: It was interesting hearing what
8 everybody thought would be an answer to what they want
9 done. When they talk about people speeding through -
10 it's a cut-through. Well, there is a million streets in
11 the Town that are cut-through's and people speed on
12 them.

13 SUPERVISOR MAHAN: There are. There are certain
14 things like the right-hand turn that was put at
15 Homestead and Route 9 when that was first put there. It
16 was put there for a reason. It was a safety reason. So,
17 there was a rationale for that.

18 When you look at Fiddlers and Comly and
19 Homestead it's a very odd old fashion intersection
20 that maybe does need stop signs there. They're not
21 asking for stop signs every block like by Shaker Road
22 Fire Department. They're not asking for that. They're
23 asking where the points are where people come flying
24 around and it's a dangerous situation.

25 As far as the ones that they talked about

1 that were put on Akyline and Laura down there, I don't
2 know what they're talking about. I would have to go
3 look. If they are there, we could find out if they are
4 there. I just don't ever recall anyone ever talking
5 about that. Skyline is a dead-end. Maybe you would
6 have one at the bottom of the hill. I don't know. I
7 don't know if there was ever one there from the
8 beginning or not. They said that these were put in
9 last year. They live there so they would notice that.

10 The project itself - - I don't know if you
11 remember but Joe Grasso has been working with the
12 developer on the changes that the Planning Board would
13 like to see and things like that. They added more
14 green space. I think the setback may be a little
15 different.

16 MR. MAGGUILLI: They reduce the number of
17 seats.

18 SUPERVISOR MAHAN: They reduce the number of
19 seats in totality in the restaurant areas. Those were
20 reduced. They were specified as to what number could go
21 between all of them. I think at one time the apartments
22 were reduced, too. There were a number of things that
23 they did that the Planning Board wanted to see and they
24 did those things.

25 MR. MAGGUILLI: What we tried to make clear to

1 them is what could go there. It is zone NCOR. If it is
2 NCOR zoned, you can go all the way up to light
3 manufacturing, commercial office buildings without any
4 approval by the Town. It's something they can build as
5 of right. We can get into the details, but if they
6 wanted to put a light manufacturing plan and there, they
7 don't need any waivers, they wouldn't need any
8 variances.

9 You don't want to get in the jackpot like we
10 got in at Forts Ferry. The first proposal for Forts
11 Ferry was much better for the neighbors than what they
12 ended up with. It's hard to convince people of that
13 fact. You try to lay it out for them,

14 SUPERVISOR MAHAN: The senior housing was just
15 the green space there - it would have been less impact
16 than adding an office to it.

17 MS. MURPHY: Absolutely. Well, if they were
18 concerned about the traffic. They're is certainly going
19 to be more traffic with an office building then there
20 would be with senior housing.

21 MR. MAGGUILLI: They could put two 40,000
22 square foot office buildings there.

23 MS. MURPHY: That's because they thought the
24 senior housing was too big to begin with.

25 SUPERVISOR MAHAN: When they rezoned in 2007

1 over the different areas, a lot of these different
2 things came into play. If you could put the
3 manufacturing building on a lot or you could put gas
4 stations which is something totally different or
5 whatever, there's a lot of stuff that's in that NCOR
6 zone. It gets difficult.

7 MR. MAGGUILLI: I can get the Code and go
8 through it with you if you like.

9 SUPERVISOR MAHAN: You look at the layout of
10 New London Road and you see the investment that was made
11 in all the other buildings that are beautiful there. It
12 doesn't blend if you had fast food or convenience store
13 or gas stations or even an office building would just
14 bring peak traffic which is the last thing you want to
15 have there. Sometimes it's trying to strike that
16 balance. They did make a lot of modifications to the
17 whole thing. So, it didn't get voted in last night.

18 MS. MURPHY: It's nice having the meetings here
19 because - - it's probably not so nice for the Planning
20 Board.

21 MR. MAGGUILLI: I got a letter about the
22 Sycamore Motel. It was an anonymous letter. A gentleman
23 complaining about a prostitution ring being run out of
24 the motel. He was very specific about the times in the
25 rooms. I was thinking: How does he know that? I turned

1 it over to the Police Department and they did an
2 undercover and sure enough, they busted up a
3 prostitution ring and got a couple of guns off the
4 street. I think he sent the letter to me because he read
5 the newspaper about the Sycamore.

6 MS. MURPHY: I was just going to say that
7 generally when the Planning Board finishes reviewing a
8 project, they seem to be really handled well and try to
9 accommodate as many residents as they can. They have to
10 understand that people buy property and they can develop
11 it,

12 MR. MAGGUILLI: Pete Stuto always says that,
13 but they have the right to develop it within the terms
14 of the law. That's what he should be saying. There are
15 restrictions.

16 (Whereas the above entitled proceeding was
17 concluded at 6:40 p.m.)

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CERTIFICATION

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

Dated: _____

NANCY L. STRANG
LEGAL TRANSCRIPTION
2420 TROY SCHENECTADY RD.
NISKAYUNA, NY 12309