

STATE OF NEW YORK COUNTY OF ALBANY

TOWN OF COLONIE

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AGENDA SESSION

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THE STENOGRAPHIC MINUTES of the above  
entitled matter by NANCY L. STRANG, a  
Shorthand Reporter commencing at 6:12 PM on  
November 5, 2020 at Memorial Town Hall, 534  
New Loudon Road, Latham, New York

Board MEMBERS:

- PAULA A. MAHAN, SUPERVISOR
- LINDA MURPHY, DEPUTY SUPERVISOR
- MELISSA JEFFERS
- DANIELLE FUTIA
- RICHARD FIELD
- JILL PENN
- DAVID GREEN

ALSO PRESENT:

- MICHAEL C. MAGGUILLI, ESQ., TOWN ATTORNEY
- JULIE GANSLE, TOWN CLERK
- MICHAEL BURICK, DIRECTOR, CIVIL SERVICE
- P. CHRISTOPHER KELSEY, COMPTROLLER

CHRISTOPHER KOSTYUN, CHIEF, EMS

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1 MR. MAGGUILLI: Shall we begin? We have  
2 three personnel matters to start the evening.

3 The first is provisionally appointing  
4 Stephen Fisher as a Heavy Equipment Mechanic  
5 in the Highway Department, Grade 11. He is  
6 going to fill the vacancy left by William  
7 Shipley. He's going to have a salary of \$27.65  
8 an hour starting November 1st. He is subject  
9 to the establishment of an appropriate  
10 eligible list and a preemployment physical.

11 Mike, is there anything you want to add  
12 to that?

13 MR. BURICK: I believe he was already an  
14 DPW, so he's just really moving from one side  
15 to the other.

16 MR. MAGGUILLI: Resolution 404B as a  
17 civil service status change. Katelyn  
18 Reepmeyer is going to be permanently  
19 appointed as a Civil Engineer. She will be  
20 making her current salary \$92,272. Again,  
21 that's November 9, 2020.

22 MR. BURICK: She passed her test.

23 MR. MAGGUILLI: Resolution 404C is  
24 permanently promoting Eric Ferguson as a  
25 Senior Water Pumping System Monitor. That's a

1 Grade 26 in Latham Water; \$59,752 starting  
2 November 9th. He's filling the vacancy of  
3 Warren Carr.

4 MR. KELSEY: He's been working out of  
5 title since probably earlier in the year. So,  
6 we are already paying him for that position.

7 MR. MAGGUILLI: Next we have the first  
8 of a series of public hearings tonight. This  
9 is our annual Resolution under Town Law 202 A  
10 for the estimate of expenses of maintenance  
11 of the Colonie sewer improvement area.

12 What we are doing here is there was an  
13 estimate of the assessment in proportion to  
14 the amounts of benefits derived on each lot or  
15 parcel. There's quite a lot of work that goes  
16 into these and they have to describe each lot  
17 and the sewer improvement area with the name  
18 of the owner and its proportionate share. If  
19 you vote yes to this Resolution, what you are  
20 actually doing is you are making the  
21 determination that the property described in  
22 the assessment rule is actually benefited and  
23 that the estimate of the benefits that have  
24 been assessed is accurate and your approving  
25 it. You are directing Julie Gansle to annex

1 the assessment roll to a warrant to be signed  
2 by Paula and Julie and directing Michelle to  
3 correct the tax.

4 Resolution 406 is exactly the same except  
5 instead of expenses of the maintenance, this  
6 is the expense of construction of sewers,  
7 disposal plants, drainage systems and the  
8 laterals. All of the underlying factors are  
9 the same as 202 that we just discussed. You  
10 make the same three findings and we move  
11 forward.

12 MR. KELSEY: For the Board, you are  
13 saying that the basis for collecting the  
14 revenue that we are outlining for Pure Waters  
15 in the budget and the later public hearing  
16 tonight.

17 MR. MAGGUILLI: That will be part of  
18 Resolution for the 2021 budget.

19 Resolutions 407, 408, 409 and 410 are  
20 exactly the same. These are authorizing  
21 contracts.

22 Resolution 407 Is Fuller Road. Resolution  
23 408 Is Shaker Road/Loudonville Fire District.  
24 Resolution 409 is Maplewood and 410 is S.W.  
25 Pitts. Under New York State Town Law 184, we

1 actually contract with fire districts for them  
2 to perform the services of firefighting and  
3 the like. The contracts are important because  
4 they form the basis of the tax levy.

5 MR. KELSEY: And these are fire  
6 protection districts. They are different than  
7 fire districts.

8 MR. MAGGUILLI: Yes, these are fire  
9 protection districts and those are different  
10 from fire districts.

11 So, that's 407 through 410.

12 Resolution 411 is the public hearing for  
13 the annual budget. This is where the  
14 assessments for the county sewer improvement  
15 area come into play as part of it, because as  
16 part of the resolve clause what Julie has to  
17 do if this is approved - is prepared duplicate  
18 copies of the budget that is adopted together  
19 with the assessment roles for the Colonie  
20 sewer improvement area and deliver copies of  
21 that to the County Legislature as required by  
22 law.

23 Resolution 412 - we had an emergency at  
24 the Loudonville pump station at Latham Water  
25 on June 19th of this year. Generator voltage

1 was lacking. It resulted in a 7,000 series  
 2 control panel being shorted. A service  
 3 pressure malfunctioned and needed to be  
 4 replaced and it was replaced on June 24th.  
 5 This was a cost of \$2,611 for the emergency  
 6 repair.

7 Resolution 413 is a Resolution under a  
 8 relatively new section of our Town Code which  
 9 is Chapter 62.

10 For the newer members of the Town Board,  
 11 what we found was that we were getting a lot  
 12 of complaints from neighbors about vacant  
 13 houses, overgrown lawns, places not being  
 14 maintained by absentee owners. There was  
 15 nothing that the Town could really do about it  
 16 because it was private property. So, we came  
 17 up with this plan adopted as part of Chapter  
 18 62 which authorizes the Town to step in with  
 19 situations like this and if we find that there  
 20 is a dangerous condition and that the property  
 21 is falling into disrepair and the like, we can  
 22 use our own Town personnel or contract to have  
 23 the work done to repair it and then assess the  
 24 cost of those repairs and put it on the tax  
 25 bill. What happens is that Albany County

1 reimburses the Town. So, this is essentially  
2 at no cost to us and forms the basis of the  
3 amount due under subsequent foreclosure  
4 proceedings and it has been working out very  
5 well.

6 This is the second time we have been  
7 involved in 25 Newton Street. This is an old  
8 garage repair shop that has been abandoned for  
9 dozens of years. Part of the problem with it  
10 is that there may be contamination at the site  
11 so nobody wants to touch it. Nobody wants to  
12 take ownership, including the County of  
13 Albany. We were getting complaints from  
14 neighbors primarily about trees and we went in  
15 and took a look. Susan Pellegrini did a lot of  
16 work on this coordinating with the County of  
17 Albany. The County of Albany has agreed to  
18 reimburse the Town the cost to remove the  
19 trees and effectuate the repairs. They will  
20 put it on the 2021 tax rolls and this came to  
21 a total cost of \$5,000.

22 We find that this new provision of  
23 Chapter 62 working very well.

24 MS. MURPHY: A lot of people just  
25 complain about their neighbors having junk in

1 their yard. That has nothing to do with it.  
2 You are talking about dangerous things?

3 MR. MAGGUILLI: We're talking about  
4 dangerous things.

5 MS. MURPHY: So, it's not about a bunch  
6 of junk that people are sick of looking at?

7 MR. MAGGUILLI: It can be junk, yes. It  
8 can be that the lawn is higher than 10  
9 inches. We've gone in and mowed lawns. If  
10 there is a Town Code violation, then we can  
11 act - is essentially how it works.

12 MS. MURPHY: There are a lot of people  
13 that on the side of their garage they just  
14 have so much junk laying around.

15 MR. MAGGUILLI: That could be a fire  
16 hazard.

17 MS. MURPHY: I wouldn't say that it was  
18 dangerous. Sometimes it's toys that they have  
19 outgrown, or just stuff they don't bother  
20 doing anything with.

21 SUPERVISOR MAHAN: There are Building  
22 Codes and things like that.

23 MS. MURPHY: So, they need to call DPW?

24 MR. KELSEY: No they just called the  
25 Building Department. If it's not hazardous,

1 we can't step in.

2 SUPERVISOR MAHAN: It's got to be  
3 hazardous.

4 MS. MURPHY: And somebody has to go look  
5 at it.

6 MR. MAGGUILLI: Or a Town Code  
7 violation.

8 SUPERVISOR MAHAN: It's kind of like - a  
9 lot of people have a lot of stuff in their  
10 yards and there would have to be a good  
11 reason for them to go look at it. Some things  
12 that we consider really overgrown - if it's  
13 within the Code, there is nothing they can  
14 do. That's why there is a specific height for  
15 the grass.

16 MS. MURPHY: And you can't put Town  
17 employees on their personal property.

18 MR. MAGGUILLI: Under this, we can.

19 MS. MURPHY: If you deem it a dangerous  
20 situation.

21 MR. MAGGUILLI: What we are first  
22 required to do is to take all steps possible  
23 to get the homeowner to remedy it.

24 MS. MURPHY: You send them a letter?

25 MR. MAGGUILLI: We sent letters and then

1 we send out notices of violations. It's only  
2 when all of those efforts have gone without  
3 any type of response that we go into the next  
4 step of getting our Town employees involved  
5 to remedy the situation.

6 MS. MURPHY: Then someone goes and looks  
7 at it.

8 MR. MAGGUILLI: Right.

9 MR. FIELD: What is being done with the  
10 Roland Henry situation?

11 SUPERVISOR MAHAN: Roland Thomas?

12 MR. FIELD: Yes.

13 SUPERVISOR MAHAN: They have checked it  
14 out at different times. He's got signs all  
15 over his lawn. They are hateful signs.

16 MR. MAGGUILLI: It's complicated with  
17 him.

18 MR. FIELD: It's still on the lawn.

19 MR. MAGGUILLI: But he maintains it. It  
20 is maintained. You know, you get into free  
21 speech issues with Roland.

22 MR. FIELD: I'm not talking about that.  
23 I'm talking about the people on both sides of  
24 him that have not been able to sell their  
25 house.

1 SUPERVISOR MAHAN: It's a terrible  
2 situation.

3 MR. MAGGUILLI: He comes into our office  
4 all the time and drops off letters. The girls  
5 are afraid to touch them.

6 SUPERVISOR MAHAN: It's a tough  
7 situation. They have been there before. There  
8 was a fire there before, years ago.

9 MS. MURPHY: There are piles of wood  
10 everywhere.

11 SUPERVISOR MAHAN: He burns wood all the  
12 time.

13 Do you remember what caused the fire?

14 MR. KOSTYUN: I don't remember.

15 MS. FUTIA: It has nothing to do with  
16 his set up, or anything.

17 SUPERVISOR MAHAN: He burns wood and  
18 everything like that. It's a sad situation.  
19 He's been around forever. This is been going  
20 on forever.

21 MR. MAGGUILLI: We will keep an eye on  
22 it. If there is something that we can do,  
23 then we will do it.

24 MR. BURICK: It's probably one of the  
25 worst in the Town.

1 MR. MAGGUILLI: I don't disagree with  
2 that.

3 SUPERVISOR MAHAN: And he makes it worse  
4 by just all of the stuff he posts up there.  
5 You're dealing with someone who has serious  
6 issues.

7 MR. MAGGUILLI: Resolution 414 is  
8 another emergency. This happened at the  
9 Clover Lane pump station. We had a break in  
10 the pressurized sewer force main on October  
11 8th of this year. ANGO did the work.

12 While they were doing the repair work,  
13 they found, in addition to the problem with  
14 the force main, an iron pipe was also cracked  
15 and so on an emergency basis they went in and  
16 the cost was \$7,030.67 to repair both items.

17 With this \$7,000 expenditure we are  
18 still at only 31% of the budgeted main and  
19 lateral repair lines item that was established  
20 at \$250,000. We are doing pretty well this  
21 year.

22 Resolution 415 is awarding Miller  
23 Environmental Group Inc. the contract for the  
24 2020 wet well cleaning project. They were the  
25 low bidder out of six at \$21,960.

1 I found that interesting that this other  
2 one had the high bid was \$93,615. That's quite  
3 a spread.

4 Next we have Resolution from Julie. This  
5 is 416. I don't think we've done a Resolution  
6 since 1989. The last time we addressed this  
7 issue was March 9, 1989 and what this does is  
8 establishes a retention and disposition  
9 schedule for New York local government  
10 records. This is under Article 57 A of the  
11 Arts and Cultural Affairs Law. Under Article  
12 57 A, we can only dispose of records that are  
13 described in our retention and disposition  
14 schedule only after they meet the minimum  
15 retention periods described therein. We can  
16 only dispose of records that do not have  
17 sufficient administrative, fiscal, legal or  
18 historical value.

19 Julie, anything you would like to add to  
20 that?

21 MS. GANSLE: Not much has changed.  
22 Basically what the New York State Archives  
23 did is they combined four other schedules and  
24 made it consolidated into one. So, different  
25 entities that were using similar schedules

1 now just have one to refer to as opposed to  
2 four different ones.

3 MR. MAGGUILLI: Resolution 417 is  
4 awarding - we did an RFP back in January -  
5 January 15 of 2020 for merchant credit card  
6 services. Our merchant card RFP committee,  
7 after doing a lot of work and research, are  
8 recommending to the Town Board that we award  
9 the contract to M & T Bank. The reasons for  
10 their recommendations of M & T is their  
11 familiarity with the operation of the Town.  
12 The 2.49% minimum charge to the customers  
13 with no minimum, they believe, will benefit  
14 primarily library, Parks and Rec and golf  
15 Course customers and small transactions.

16 Chris, anything you want to add to that?

17 MR. KELSEY: We received all of the  
18 bidders just prior to Covid. Literally, it  
19 was March 13th. Then, we were put on hold  
20 until September when we decided we could  
21 probably get back to this.

22 We met with M & T again as they have the  
23 best product, really. We are looking to move  
24 toward a [sic] WEN based product. Instead of  
25 the Town absorbing the fee in most cases,

1 Municipal Law allows us to pass on a  
2 convenience fee to the customer to allow the  
3 customer to choose whether they want to use a  
4 card or not. It will be a 2.9% of the  
5 transaction. If they say no, I don't want to  
6 do that, I will pay cash, they can do it  
7 another way.

8 Also, it will benefit the Town in that  
9 way that we are not absorbing the cost. It  
10 also allows us to open up to more departments  
11 like the Building Department, Pure Waters -  
12 where we can expand that ability for them for  
13 convenience. Then, people don't need to come  
14 in.

15 We have a lot of people who have been  
16 asking - especially in the Building Department  
17 - for years - my \$50 shed permit, can I just  
18 give you a credit card for that? We were  
19 saying no because the Town eats 3% off of  
20 that, so it eats into our revenues. Now, the  
21 end user would have a choice to either write a  
22 check, or pay the minor convenience fee to use  
23 a credit card.

24 MR. KOSTYUN: Chris, would that be  
25 available to my office?

1 MR. KELSEY: It would. If the board  
2 awards it this evening, we're going to try to  
3 get a meeting with M & T and any interested  
4 department and their ability to create a no  
5 charge portal interface that we can use in  
6 the department from the web. People can sit  
7 in their home and put in some kind of code  
8 and use it that way.

9 MR. MAGGUILLI: There's only one other  
10 matter that I thought I would bring to your  
11 attention. I'm not sure how many of you know  
12 about what's going on at Sunset Boulevard.  
13 That's the case of Empire sealcoating - where  
14 we had all the neighbors on Sunset Boulevard  
15 who happen to live in the village of Colonie  
16 and not the town come to us last year. It was  
17 after they went to the village of Colonie -  
18 this was to see if we could do anything about  
19 Empire sealcoating.

20 Sunset Boulevard is a single-family  
21 residential neighborhood. The property where  
22 Empire Sealcoating was being operated from was  
23 at 200 Sunset Boulevard. It's at the very end  
24 of the street and there's only one way in and  
25 one way out, which kind of exacerbates

1 matters. The property was deemed a  
2 pre-existing non-conforming use as a business  
3 was being run out of there. The exact nature  
4 of the business, we are not sure of.

5 At any rate, the neighbors were very  
6 upset. There had to be 40 or 50 of them at  
7 least that took the time to come in at various  
8 times to meet with us, plus the entire  
9 neighborhood is concerned. What they want us  
10 to do is essentially shut the business down.  
11 Their main concern is the volume of traffic  
12 that goes up and down Sunset and the big Mac  
13 trucks operating at all hours of the day and  
14 night.

15 We took a look into it and I think the  
16 Town had made an error at one point in time  
17 when they thought that the dates for the  
18 pre-existing non-conforming use was 2009  
19 instead of 2007 because a particular section  
20 of the Town Code was amended in 2009, but that  
21 didn't change the real date that should have  
22 been applied which was January 1st of '07.

23 Be that as it may, we brought a stop work  
24 order against Empire Sealcoating and then we  
25 rescinded his certificate of occupancy. They

1       lawyered up, of course. We started  
2       negotiating. Things got set aside because of  
3       Covid and when the Town was shut down and the  
4       like. Be that as it may, last month we finally  
5       got in front of the Zoning Board of Appeals  
6       and presented just the opening remarks of the  
7       case. This is going to be something of a long  
8       drawn out hearing. That was a Thursday night.

9               The following evening the gentleman who  
10       owned the Empire Sealcoating killed himself.  
11       He drove his car into 200 Sunset Boulevard -  
12       his truck rather. He put a generator into the  
13       cab and turned it on and died. He killed  
14       himself.

15              MS. MURPHY:   What was that properties  
16       zoned when he actually purchased it for the  
17       first time?

18              MR. MAGGUILLI:  It was zoned  
19       single-family residential.

20              MS. MURPHY:  He never meant to build on  
21       it. Why would they have sold it under the  
22       circumstances?

23              MR. MAGGUILLI:  One of the best pieces  
24       of evidence that I have is our GIS  
25       photographs that are taken. When you look at

1 the GIS photographs from April 2007, it shows  
2 a little pole barn and nothing else. Then,  
3 they take the GIS pictures pretty much  
4 annually. You can see where he expanded his  
5 business greatly.

6 At one point in time the Town had  
7 permitted him, when this first started, to  
8 have just one truck. One in the morning and  
9 one truck out at night and two employees only.  
10 That has expanded where the neighbors have  
11 been taking pictures for me. I have over 2,400  
12 pictures of these trucks going in and out of  
13 Sunset.

14 Because of this gentleman's death, we  
15 had to adjourn it. The hearing date was  
16 scheduled for November 12th. It has been  
17 adjourned without date.

18 I did meet with the lawyer and the widow  
19 - I didn't meet with the widow, directly. I  
20 didn't want to. She stayed in here and the  
21 lawyer went back and forth while we  
22 negotiated. What they were looking for was  
23 either a swap of Town land for their property,  
24 which I don't think we can do. Then they're  
25 going to propose limiting the volume and the

1 number of trucks and the hours, etcetera. I  
2 told him that I would certainly present it to  
3 the neighbors, but the neighbors pretty much  
4 controlled the situation. I can understand  
5 their position. They live in a nice quiet  
6 residential area and there's only one way in  
7 and out of 200 Sunset.

8 MS. MURPHY: But it's been that way  
9 forever.

10 SUPERVISOR MAHAN: It started off with  
11 the builder in that area living in that  
12 neighborhood. His last name was Cirrone. That  
13 was Cirrone Construction.

14 MS. MURPHY: That's who sold him the  
15 property.

16 SUPERVISOR MAHAN: Yes. Cirrone had a  
17 business there years ago - many years ago.  
18 The Town allowed him to have storage. He had  
19 a construction business, but he had other  
20 sites and things that he kept things. So,  
21 from what the neighbor said, he would go out  
22 in the morning and back at night. It wasn't  
23 like construction business, a paving  
24 business, a landscaping business, a sealcoat  
25 business - it wasn't that kind of traffic and

1 that. It was a much smaller operation. The  
2 neighbors were okay with that. Somewhere  
3 along the line, I don't know how many times  
4 in the past from one operator to the other -  
5 whether they leased, or bought it or whatever  
6 through the years -

7 MS. MURPHY: At one point there was a  
8 ton of junky old cars there.

9 SUPERVISOR MAHAN: Yes.

10 MS. MURPHY: He called me probably three  
11 times in the last three or four weeks before  
12 he died and he said -

13 MR. MAGGUILLI: Who is this, Linda? Ed  
14 [sic] Gissoms?

15 MS. MURPHY: Yes. He was just trying -  
16 he said we tried to be nice to the neighbors  
17 in the wintertime. I've had my men stop and  
18 help them if they're stuck in the snow. He  
19 said, I'm just trying to work out something  
20 so I can have my business there. He seemed  
21 like a very reasonable man. I couldn't  
22 believe when I saw that he had committed  
23 suicide. Some of those people that live back  
24 there are ridiculous. Did they not let our  
25 Village garbage trucks go back there and take

1           their garbage? Of course they do. Those are  
2           nasty and dirty old trucks, too.

3           SUPERVISOR MAHAN: This was a business  
4           that was operating seven days a week.

5           MS. MURPHY: I can see that, but when he  
6           purchased it, I don't believe he thought it  
7           was not conforming.

8           MR. MAGGUILLI: Linda, I have proof.  
9           Before he purchased it, he wrote a letter  
10          himself that he signed that went to Cirrone  
11          and Cirrone's attorney telling him exactly  
12          what he needed. He knew it was a  
13          non-conforming use and that he could not buy  
14          the building unless they would ensure him  
15          that he could do X, Y and Z. It was a 23-page  
16          letter.

17          MS. MURPHY: Who assured him of that?

18          MR. MAGGUILLI: Cirrone.

19          MS. MURPHY: How does he have the right  
20          to ensure that man -

21          MR. MAGGUILLI: He doesn't.

22          MS. MURPHY: So, they drove this poor  
23          man to the point that he wanted to commit  
24          suicide? That's really pitiful.

25          MR. MAGGUILLI: Because what you had

1 just mentioned - what to do about buildings,  
2 trucks and the like - I think that's one of  
3 the reasons why the Village never  
4 weight-limited the road. One of my first  
5 questions was why didn't the Village of  
6 Colonie put a 4,000-pound weight limit on  
7 Sunset? I think they were concerned about  
8 just that.

9 MS. MURPHY: Every street in this Town  
10 has some -- I have seen tractor-trailers go  
11 down my street occasionally. I don't know  
12 where the heck they're going, but they go on  
13 my street. I'm sure they go on other streets,  
14 too.

15 MR. MAGGUILLI: When you see the  
16 pictures, the volume was ridiculous.

17 MS. MURPHY: Well, you know more about  
18 it than I do but I just felt bad because the  
19 man sounded like he was totally frustrated  
20 and said I just want to have a small business  
21 and do well. I've never heard of the  
22 neighborhood where people complain as much as  
23 they did on Sunset Boulevard. Most of them  
24 aren't even home during the day when his  
25 running trucks back and forth.

1           SUPERVISOR MAHAN:  Apparently he was  
2           running them also at night and weekends.  I  
3           don't know the guy and I don't know the  
4           Cirrone guy.

5           MS. MURPHY:  I never met him, but he  
6           called me three times.

7           MR. FIELD:  Did he call anybody else?  He  
8           called me.

9           MR. GREEN:  I talked to him for like an  
10          hour.

11          MR. MAGGUILLI:  When this first started  
12          and I first served him with a stop work  
13          order, he came in and this was before he had  
14          an attorney and I met with him at least two  
15          times or possibly more to see what could be  
16          worked out.  Again the guy wanted time to do  
17          something, which the neighbors were getting  
18          upset with.

19          MS. MURPHY:  ENCON fined him for  
20          something back there.  He paid \$1,500 to  
21          ENCON.

22          SUPERVISOR MAHAN:  There's a lot of  
23          wetland back there.

24          MR. MAGGUILLI:  You can't market it.  He  
25          told me he approached Marini about buying the

1 land. Marini later said that's not true and  
2 he never did that. I think he may have  
3 approached one of Marini's employees or  
4 something.

5 MS. MURPHY: Well, he was a fireman. He  
6 certainly wasn't a developer.

7 MR. MAGGUILLI: But he couldn't sell the  
8 property primarily because of the wetlands.

9 MS. MURPHY: That's too bad.

10 SUPERVISOR MAHAN: It is a sad  
11 situation. No one knows really what his  
12 personal life was like.

13 MS. MURPHY: It's a bummer to buy  
14 property and not knowing -

15 MR. GREEN: That's why you have  
16 attorneys to do that. He might not have had  
17 proper representation.

18 MS. MURPHY: Wouldn't he have an  
19 attorney if he was buying property?

20 MR. GREEN: You hope that he would. You  
21 would hope that the contract would spell out  
22 what the intended use was and then you do a  
23 zoning verification and you find these things  
24 out.

25 MS. MURPHY: There are couple of

1 neighbors where when you make the turn into  
2 his property that were really not happy.

3 MR. GREEN: It's very unfortunate, but  
4 the reality of the situation is that it is a  
5 black-and-white situation in my mind.

6 MS. MURPHY: I have not heard about all  
7 the things that Mike has talked about.

8 MR. GREEN: I have looked at it from a  
9 legal standpoint which is what you should go  
10 by and I think the guy is in the wrong. We'll  
11 just have to wait this one out and see what  
12 happens. It's unfortunate that he took his  
13 own life.

14 SUPERVISOR MAHAN: It's very unfortunate  
15 and very sad.

16 MR. MAGGUILLI: The only problem is if  
17 we reach some kind of accommodation with the  
18 guy, let's say we reach a deal where he's  
19 limited in the amount of truck traffic, we  
20 are essentially granting him a use variance  
21 and I don't know if we even have the  
22 authority to do that.

23 MR. GREEN: At this point in time it  
24 would be that the property that you are  
25 granting to the applicant itself doesn't

1 quite matter. Right now the property is  
2 either with the wife, or it's in an estate  
3 proceeding.

4 MR. MAGGUILLI: He not only expanded the  
5 business, he expanded the buildings. He got  
6 in trouble with ENCON because he was storing  
7 equipment on the DEC land. He was disturbing  
8 the wetlands there. He just paid \$1,000 fine  
9 to DEC.

10 He lives in Delmar, apparently. I found a  
11 newspaper article out of Delmar/Bethlehem  
12 Spotlight where the Town went after him there  
13 because the neighbors were complaining about  
14 him parking his large trucks in front of his  
15 house and blocking traffic on his street.  
16 Bethlehem ordered him to stop using the road  
17 for his business purposes.

18 SUPERVISOR MAHAN: It is a sad  
19 situation.

20 MR. GREEN: But the non-conforming use  
21 that he presumably had upon purchase - that  
22 expired, right?

23 MR. MAGGUILLI: I have taken the  
24 position that was a legal non-conforming use  
25 in 2007. That was very, very limited. It had

1 nothing to do with the sealcoating business.  
2 As you know, you can't expand or change a  
3 non-conforming use.

4 MR. GREEN: If it goes dormant for a  
5 year or more, it reverts back.

6 MR. MAGGUILLI: We didn't allege that.  
7 We've never alleged - because we had no way  
8 to prove it. Part of the problem is this  
9 parcel of land - where the building is - it's  
10 a way back and you can't see it from the  
11 street. We can't go on without a search  
12 warrant, legally. So, we were never able to  
13 determine what was going on back there. Then  
14 he did expand the building three or four  
15 times and he never went in and got a building  
16 permit for it. So, our hands are tied there  
17 because you can see from the photograph that  
18 he's put additions on the property and built  
19 other structures on the property. Because  
20 there are no building permits, we don't know  
21 exactly the size, the use and the like.

22 MS. MURPHY: Well, I guess he was  
23 foolish if he purchased it and didn't know  
24 that it was non-conforming. Whoever sold it  
25 to him certainly should have let him know

1 that it was a non-conforming property.

2 MR. FIELD: Did the neighbors complain  
3 about the smell of the coating?

4 MR. MAGGUILLI: The only complaints that  
5 I've heard is about the volume of traffic.  
6 There was nothing about noise, or smells or  
7 odor.

8 SUPERVISOR MAHAN: On a little different  
9 note, we have the budget tonight. Chris and I  
10 are going to do a PowerPoint presentation on  
11 the budget which we do every year. So, we  
12 have that all set.

13 Everything works down there?

14 MR. KELSEY: Thanks to Doug and Julie,  
15 because I forgot all about it.

16 SUPERVISOR MAHAN: Does anybody have any  
17 questions regarding the budget?

18 (There was no response.)

19 Danielle, you are all set?

20 MS. FUTIA: Yes.

21 SUPERVISOR MAHAN: The part about [sic]  
22 OPAV, do you understand that?

23 MS. FUTIA: Yes, thank you.

24 MR. KELSEY: There are two levels of  
25 financial fitness - if everybody looked at

1 the financial statements. There are two  
2 levels. There is one that the County  
3 standards make us put together. All of the  
4 liabilities have to be covered versus the  
5 fund level which is more the operational  
6 level which is what we budget off of and  
7 everything else. This shows a more accurate  
8 financial picture because - the retirement  
9 costs for me - when I retire 20 years from  
10 now, you've got a liability to look for now.  
11 The unfunded portion of the pension liability  
12 from New York State - that's never going to  
13 get paid in one swoop. They do make us book  
14 those liabilities, which are huge  
15 liabilities.

16 MS. FUTIA: That's if we closed up shop.

17 MR. KELSEY: That's right. If we closed  
18 up tomorrow, we would have to fund those as  
19 well. The Town is never going to close up  
20 tomorrow because if we went belly-up, the  
21 control board comes in and the state runs us  
22 until we're independent. So, it's more for  
23 the rating agencies. The rating agencies keep  
24 upping our rating, so they're happy with how  
25 those statements look. They understand that

1 it's a long-term liability and we just pay  
2 what is due every year. We budget for what is  
3 due every year.

4 SUPERVISOR MAHAN: It's a good question  
5 because it is hard to understand. Danielle's  
6 question was back in 2007 -

7 MS. FUTIA: It was 2013, but I  
8 accidentally put 2007. I can only go back to  
9 2013 online.

10 SUPERVISOR MAHAN: When did we pay off  
11 the deficit?

12 MR. KELSEY: 2011 was the deficit. Then,  
13 we had the other liabilities.

14 SUPERVISOR MAHAN: But we paid that off  
15 in 2011.

16 MR. KELSEY: But there would still be  
17 that level of deficit in 13 similar to the  
18 OPAV -

19 MR. KELSEY: The 2007 deficit.

20 SUPERVISOR MAHAN: The one that we had  
21 to pay back back then. We pay that back in  
22 2011.

23 Are you sure you didn't mean 2007?

24 MS. FUTIA: I couldn't get access to  
25 2007. I just want back as far as I could

1 online, which was 2013. In my email I did say  
2 2007 because I had the number seven in my  
3 mind.

4 SUPERVISOR MAHAN: That part, I don't  
5 know what you are looking at because we  
6 didn't have any deficit like that in 2013.  
7 There are so many different things. There's  
8 the budget and then there's the audit and the  
9 financial report is the audit every year.  
10 That's done by outside auditors. There are  
11 accounting principles that you have to put on  
12 paper. That's what they are. They are paper  
13 accounting principles.

14 As Chris was saying, they want you to  
15 recognize that you have 850 employees. They  
16 want to know how much in pension will the Town  
17 be paying out through the years for 850  
18 employees. So, they calculate that. Somebody  
19 could retire tomorrow, but then somebody else  
20 might not retire for 30 years from now. It's  
21 ongoing. I think it's more of the recognition  
22 because towns and cities and whatever don't  
23 run into situations where well, we didn't put  
24 any money aside for pensions which we do every  
25 year.

1           It's kind of like the landfill closure/  
2 post-closure. Before the company leased it,  
3 the government says the towns and the cities  
4 are supposed to - if you have a landfill,  
5 you're supposed to put a certain amount of  
6 money away each year for closure/post-closure.  
7 Which by the time landfills close, it's  
8 millions and millions of dollars. Back then,  
9 the Town wasn't putting any money away for  
10 that. So, all that got - to the contract with  
11 the operating company, they assumed all those  
12 closure/post-closure and we have to recognize  
13 that as the owners. We don't have to pay it.  
14 That's their responsibility, but we are the  
15 owners.

16           So, there are all those accounting  
17 principles that you have to have all the stuff  
18 on. I think the majority of it is to keep  
19 everybody on track. You have to know what you  
20 have to pay and all that kind of stuff. The  
21 things that we have to pay yearly - that's in  
22 this budget here. The audit is not fun  
23 reading, but if you're reading anything -

24           MR. KELSEY: It's really good insomnia  
25 reading.

1           SUPERVISOR MAHAN: With the audience you  
2 kind of have to read everything because if  
3 you don't, numbers are thrown out all over  
4 the place and you don't know what they're  
5 referring to. If you read the whole thing, it  
6 defines that you're recognizing it. However,  
7 these are long-term things that are over  
8 time. So, our responsibility is to make sure  
9 in the yearly budget that we have the money  
10 set aside. That's how that works.

11           MR. KELSEY: We are much better  
12 financially in the fund level.

13           SUPERVISOR MAHAN: The question about  
14 the fire departments - it's confusing because  
15 they are volunteer fire departments. There's  
16 fire protection districts and then there's  
17 fire districts. Certain ones contract with us  
18 and others are commissioned districts.

19           MR. KELSEY: Those are the ones that  
20 have the public hearings tonight. Those of  
21 the fire protection districts - they contract  
22 with us. Then, there are the six that are  
23 their own independent governmental entities.  
24 The Comptroller's office requires that their  
25 budgets be disclosed in our budget even

1           though you guys can't vote on their budget or  
2           have no oversight on their budget. So, that's  
3           what makes it even more confusing.

4           SUPERVISOR MAHAN: If you live in their  
5           district, then you vote on their budget. If  
6           you live there and they're going to build an  
7           addition and it's going to cost X amount of  
8           dollars, then you would go to their meeting  
9           and you get to vote on that as a member.

10          Where I live, I think we just paid  
11          through taxes.

12          MR. KELSEY: Where are you?

13          SUPERVISOR MAHAN: I'm in Verdoy.

14          MR. KELSEY: No, Verdoy is a commission  
15          district. As Latham, Shaker Road -

16          SUPERVISOR MAHAN: But it's on our bill.

17          MR. KELSEY: It's on your bill, but they  
18          are their own government on your bill.

19          SUPERVISOR MAHAN: Right, they have  
20          their own meetings. The Town isn't paying for  
21          that. Each individual person pays their  
22          district. So, there are 12 different fire  
23          districts. Every fire department creates  
24          their own budget. It's not the same all over.  
25          Verdoy is a big district. Maplewood is a

1 little tiny district. The tax is going to be  
2 less there. That's how that works.

3 The borrowing that we do at the same time  
4 of the year - it's usually around September  
5 and August. Because our taxes for the fourth  
6 quarter are for January for December - they  
7 don't come in December for whatever reason.  
8 The county doesn't send them to us until  
9 January. That's just to be sure everything is  
10 covered. When that comes in January, Chris  
11 turns around and paste that off.

12 MS. FUTIA: Is that something that you  
13 do every year?

14 SUPERVISOR MAHAN: That is done at the  
15 end of the year because of the dates when  
16 they send us the taxes. That's what that is  
17 for. You can do that on a temporary basis for  
18 something -- in other words, that's a perfect  
19 example because you still have to operate in  
20 October, November and December. During that  
21 calendar year, you don't get that last check  
22 until January.

23 What was happening prior to this  
24 administration is they were borrowing every  
25 quarter to pay salary and bills. So, that's

1 four times a year that they were borrowing.  
2 You're not supposed to do that.

3 When we went down to Moody's in New York  
4 to straighten out all the financial stuff,  
5 they were very stern on that. That's not a  
6 temporary thing. You are borrowing to operate  
7 and you're not supposed to do that. As a  
8 temporary thing when you know you have the  
9 money coming in to pay that back, that's fine.  
10 That's the way we've always done it. Actually  
11 when we first got here, because there was no  
12 cash or anything to work with, we had to work  
13 with them - you have to let us get to a point  
14 where we can be able to wean ourselves off of  
15 that until we could get to a point where  
16 there's enough there to work with. They were  
17 okay with that. They were extremely, extremely  
18 strict.

19 It's like with the [sic] OPAV thing. If  
20 that were the case, the Town would never get  
21 to that point. It should never get to that  
22 point. You can't shut down - tomorrow the Town  
23 is still here and it has to operate. If the  
24 Town is in financial trouble to a point where  
25 they can operate, that's when the control

1 board basically - that's what New York State  
2 calls it - that's bankruptcy. They come in and  
3 they set everything up and you have no control  
4 over any of the money. They just map it all  
5 out as to how many years you going to pay back  
6 and whatever they have to do to get a paid  
7 back. Whether they have to let people go or  
8 raise taxes. They tell you the number and they  
9 set it up and you just basically come to work.  
10 That would've been a lot easier for me. That's  
11 a good question because it's confusing.

12 When I saw it I was like, wow did  
13 something happen here overnight? Audits are  
14 not something that you read and memorize  
15 because they're just audits. You have to like  
16 to count numbers.

17 MR. KELSEY: I'm a bean counter.

18 SUPERVISOR MAHAN: You're very good  
19 being counter. You guys do a great job.  
20 Anyway, that's that.

21 So, no other questions here?

22 (There was no response.)

23 This is just basically a brief overview  
24 of the main points of the budget that we do  
25 every year. It makes it very easy and

1 user-friendly to follow.

2 MR. KELSEY: We will post on the website  
3 tomorrow. Tonight after the public hearing  
4 you will have the opportunity to vote but you  
5 don't have to call a special meeting because  
6 it has to be voted on by the 20th of  
7 November, you guys have a meeting on the  
8 19th. Depending on if there was a lot of  
9 public questioning or whatever - I don't see  
10 how there could be. It could be postponed  
11 until the 19th.

12 SUPERVISOR MAHAN: We kind of use a rule  
13 of thumb. We encourage people to come, but  
14 they don't come. They used to, but they don't  
15 come anymore. Most people - like if they have  
16 a question or they're confused, they just  
17 call.

18 MR. KELSEY: I haven't heard anything  
19 from the public this year.

20 SUPERVISOR MAHAN: As a rule of thumb if  
21 nobody attends and we haven't received  
22 questions from the public through all the  
23 time that it's been on the website, if  
24 there's no questions -

25 MR. KELSEY: Julie, did you have a lot

1 of people asking for copies?

2 MS. GANSLE: No.

3 SUPERVISOR MAHAN: We usually just vote  
4 and it's done. People have questions and if  
5 there are questions that we cannot answer,  
6 like Chris says, if the timeline tells us how  
7 long we have - if we need to, we hold off or  
8 we would have to call a special meeting just  
9 for that purpose. We've never really come  
10 across questions -

11 MR. KELSEY: I don't recall a time when  
12 we actually didn't vote on it that evening.

13 SUPERVISOR MAHAN: Like I say, they  
14 usually just call up or send an email. We  
15 haven't even gotten those. We actually put  
16 out all the information before we made the  
17 cuts and everything - that's already gone out  
18 to the public. So, they have reviewed that.  
19 It's pretty straight-forward. In the  
20 beginning, we would have a crowd and we got  
21 some good questions. We had one woman that  
22 used to come every year.

23 MR. KELSEY: Mrs. Weiss. I loved Mrs.  
24 Weiss.

25 SUPERVISOR MAHAN: She went through

1 everything. It made it a lot more  
2 interesting.

3 (Whereas the above entitled proceeding  
4 was concluded at 6:48 PM)

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CERTIFICATION

I, NANCY L. STRANG, Shorthand Reporter and Notary Public in and for the State of New York, hereby CERTIFIES 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.

Date: \_\_\_\_\_

\_\_\_\_\_

Nancy L. Strang  
Legal Transcription  
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