

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 25, 2019 6:05 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
- Christopher Kelsey, Acting Comptroller
- Joseph LaCivita, Director, Planning and Economic Development Department

1 MR. MAGGUILLI: We only have three personal
2 matters on tonight.

3 The first is permanently appointing Ryan Blake to a
4 position of Sewer Treatment Plant Operator, Grade 22. On
5 July 13 he successfully completed the wastewater
6 certification requirements needed for the permanent
7 appointment. He will start the new position on July 26
8 at \$51,260.

9 Next, we have another new position of Senior Sewer
10 Maintenance Worker, Grade 27 and we will be appointing
11 Joshua Spenziero to that slot at \$60,057 a year. That is
12 effective July 29.

13 Then, finally we have a Resolution appointing Sean
14 Murray as a paramedic in our EMS Department. He is
15 replacing Ashley Brizee, at \$25.77 an hour; July 29.

16 Crystal Peck is here from Mr. Bailey's office for
17 Resolution 328. This is under 202b of the Town Law for
18 more improvements to the Mohawk View Water Pollution
19 Control Plant. This is adding roof access ladders to
20 improve access and safety. The cost is \$56,500.

21 One question I have, Crystal, is typically we say
22 where the money is coming from to pay for this. I would
23 assume that it is coming from rents and regular water
24 charges. We are paying for this in-house. Do you want me
25 to amend the Resolution to include that, or just leave

1 it as it is?

2 MS. PECK: I don't think we need to add it to the
3 Resolution. I am going to say at the public hearing
4 tonight what it is going to do to the annual debt
5 service for Pure Waters. I think that should cover it.

6 MR. MAGGUILLI: Thank you.

7 SUPERVISOR MAHAN: Was it coming from the excess
8 rents?

9 MR. KELSEY: This is capital borrowing.

10 MR. MAGGUILLI: Resolution 329 is one that we have
11 all been waiting for. This is a combined Resolution for
12 the SEQRA determination declaring this to be a Type 1
13 action with a negative declaration and then adopting or
14 not adopting the updates to the 2005 Comprehensive
15 Plan.

16 As you all know, the public hearing was closed at
17 the last meeting and so this goes straight to a vote.

18 MS. MURPHY: Do you have any copies of the Comp
19 Plan? I ran into Chris Dennis and she hasn't seen any
20 of the most recent things. I told her that I would give
21 her a copy.

22 SUPERVISOR MAHAN: We can make a copy.

23 MR. ROSANO: She can have mine. I have an extra
24 copy at home.

25 MR. MAGGUILLI: Resolution 330 is authorizing

1 Paula to make amendments to the engineering agreement
2 that we have with Weston and Sampson. This is for the
3 Albany Shaker Road pump station.

4 After the contract was signed, New York State DOT
5 made changes to the sewer tributary, necessitating
6 revisions to the original agreement. This agreement and
7 the need for it applies with our change order policy
8 that is in our procurement manual. It is a valid change
9 order due to the unforeseen circumstances necessitating
10 the amendment to the contract.

11 Resolution 331 is authorizing Paula to clear an
12 emergency for the sanitary sewer that collapsed at 16
13 Linton Avenue. Anjio Construction did the work;
14 \$11,996.24.

15 Next we have a payment out of our tort fund. This
16 is for a settlement to Mr. Roland; \$1,182.84. This was
17 damage to his vehicle caused by a pothole in a defect in
18 the Town Road that we actually created. So, because we
19 created it, we didn't have our usual notice defense.

20 When Rebekah looked it over, she recommended
21 payment and I trust Rebekah's judgment.

22 MR. GREEN: What did we do to create it?

23 MS. WHALEN: Wait, did you say this was for
24 hitting a pothole?

25 MR. MAGGUILLI: It was like a pothole and a

1 highway defect. We had apparently dug up the road to
2 repair a pothole and we didn't do it correctly and the
3 pothole became worse. So, in Rebekah's mind, we were at
4 fault.

5 Normally, 99.9% of the time we deny these claims
6 because of the notice.

7 MR. GREEN: I know. I haven't seen that.

8 MR. MAGGUILLI: This one, because of the
9 circumstances, where we actually created it, there's no
10 notice requirement because we created it. I hate to pay
11 it. If we went to court, we would lose.

12 Next we have Resolution 333 which is adopting a New
13 York State Unified Solar Permit. This is strictly for
14 residential solar installations less than 25 kilowatts.
15 The intent of this is to provide municipalities with a
16 streamlined consistent and comprehensive process for
17 solar applications and installations. It will be the
18 same throughout the State of New York. This will make it
19 easier for all concerned; the applicants and the
20 municipalities. If you adopt this tonight, this will
21 create an application fee of \$150.

22 MS. WHALEN: I've a question. I recall that we did
23 adopt something with respect to solar previously. How
24 does that comport with this?

25 MR. MAGGUILLI: I think what you're referring to

1 is the solar energy initiative that we went through
2 with MEGA. Is that the one you are referring to?

3 MS. WHALEN: No, I thought we amended the Land Use
4 Law or the regulations or codes. Didn't we require
5 residents to have to get permits if they were going to
6 do any kind of solar farm or something?

7 MR. MAGGUILLI: Well, the residents always needed
8 a permit for solar installation. If you guys vote for
9 this tonight, we are tossing our current applications
10 out and we are using the one that has been prepared by
11 the State of New York. The State of New York is
12 suggesting that all municipalities adopt this so there
13 is one application process throughout the state. And it
14 makes it consistent for the municipality. The fee
15 schedule can be different in each municipality.

16 MS. WHALEN: So, that previous regulation that we
17 adopted will now become moot.

18 MR. MAGGUILLI: No, because I think the Resolution
19 we adopted had more to do with the Land Use aspect; how
20 many square feet and how it will be attached. This is
21 just a form of paper that they use to start the
22 process.

23 MS. WHALEN: So, this will be like an insert into
24 that section of the Code. We will insert New York State
25 language.

1 MR. MAGGUILLI: This authorizes the Building
2 Department to use the New York State form for all solar
3 permit applications. That's the only thing that has
4 changed, plus the \$150 fee.

5 MS. WHALEN: So, that all goes through the
6 Building Department and not the Planning Department.

7 MR. MAGGUILLI: Well, it can go through Planning.
8 The application itself, what we are given tonight, goes
9 to the Building Department.

10 MR. LACIVITA: I think it's partly covers the
11 statewide initiative so that having solar power is an
12 alternative.

13 MR. MAGGUILLI: Resolution 334 is our annual
14 agreement with North Colonie Central School District.
15 We split the cost of experts, particularly their
16 appraisers in our real property tax cert cases and this
17 is just doing it for the current year.

18 Resolution 335 is another annual agreement with
19 North Colonie schools. We agreed to provide a School
20 Resource Officer. They agreed to reimburse us \$40,000.

21 Resolution 336 is accepting a proposal from Arthur
22 J. Gallagher and this is for this year's in-land marine
23 and equipment insurance coverage. This is a policy that
24 covers our equipment. It is computerized business
25 equipment, software, golf carts, our emergency

1 equipment, portable radios, playground equipment,
2 pedestrian bridges and all sorts of things. This year is
3 \$45,420. That is up \$575 from last year. All the terms
4 and conditions are the same. All the items of coverage
5 are the same. We have made no claims under this policy
6 in the previous year, but yet they raised it \$575.
7 There's nothing we can do about it.

8 Resolution 337 is authorizing Paula to sign an
9 agreement with Orange Roofing. Orange was the low quote
10 for this project to repair two roofs at the Municipal
11 Training Center. One thing that is a big difference is
12 Orange Roofing requires a 50% deposit upon award of the
13 contract for materials.

14 I think, but I have no direct knowledge, that this
15 is a small outfit. They need the money to get the
16 materials to do the work. Their bid is about \$6,000
17 lower than the next lowest quote. So, it is worth it.
18 There's nothing in the law that prevents us from doing
19 this. We are authorized to do just that.

20 Next, we have another emergency procurement
21 Resolution. We had a valve go bad and we had to replace
22 it, but we didn't have the parts. We had to go out and
23 get the parts and that cost us \$1,575.08 and we bought
24 it from F.W. Webb.

25 Resolution 339 is our annual facilities license

1 agreement with Siena. We can use the Marcel athletic
2 field, the resident halls and the academic facilities
3 for physical abilities testing and tactical training for
4 our Police Department. This is at no cost to the Town.
5 Siena has always been very good about this.

6 Resolution 340 is a partnership agreement with
7 LifePath. They were formally Senior Services of Albany.
8 This is health insurance counseling to senior citizens
9 in the Town. This is retroactive to April 1, 2019. We
10 will get paid \$2,000 for providing health insurance
11 counseling to qualified seniors.

12 MR. GREEN: Who does the counseling?

13 MR. MAGGUILLI: Senior Services, that's what they
14 now call themselves for this program, LifePath. It's
15 Christine Cary's department.

16 MS. MURPHY: But we still have our own Senior
17 Services Department.

18 MR. GREEN: So, what determines whether or not
19 that \$2,000 gets triggered, if nobody comes in for
20 counseling?

21 MR. MAGGUILLI: We still get it. I think it's
22 pretty well used, though.

23 Resolution 341 is adopting our new procurement
24 policy and procedure manual for the current year. This
25 does include the addition that I requested for the

1 change order policy, after reading all those Comptroller
2 things that criticized a lot of Towns for not having
3 one. We now do.

4 MS. WHALEN: We have always had a procurement
5 policy.

6 MR. MAGGUILLI: We have never had a change order
7 policy.

8 Resolution 342 is authorizing Tracy Sidoti, who is
9 a Library Aide who was recently hired, to take a five
10 day leave without pay - no, more than that. It's August
11 5 to August 18. She was recently appointed to this
12 position as a full-time Library Aide. This was a long
13 planned vacation and under our employment rules, the
14 Town Board has to approve a leave of absence greater
15 than five days.

16 MS. WHALEN: Why is she on leave of absence?

17 MR. MAGGUILLI: She had planned a vacation. This
18 comes up every now and then. That's it.

19 The only other new thing that I have is two days
20 ago the Town was served with a Federal Court action - a
21 1983 action against our Police Department alleging
22 wrongful arrest, excessive force and the like.

23 It had to do with the situation at St. Patrick's
24 Cemetery where our Police Officers responded to a call.
25 They went to the cemetery and found a woman sitting in a

1 car and asked her to get out. She refused. They asked
2 her for her keys and she refused. So, they took the keys
3 away from her without her consent and got her out of the
4 car without her consent and then brought her to
5 Samaritan Hospital for psychiatric treatment.

6 The reason for the call was is that her mother
7 contacted the Police Department concerned about her
8 mental health. It was actually a family member and I'm
9 not sure it was her mother. She was very concerned that
10 she was going to harm herself and that she went to St.
11 Patrick's Cemetery because that's where her loved ones
12 were buried that she wanted to rejoin. So, our Police
13 wanted to make sure she didn't hurt herself.

14 As usual, no good deed goes unpunished and we got
15 hit with a lawsuit.

16 MR. GREEN: Who is the attorney?

17 MR. MAGGUILLI: Trevor Hannigan, who is not a bad
18 kid.

19 I talked to Rebekah and Rebekah and I are going to
20 handle this in-house.

21 MS. WHALEN: When was this?

22 MR. MAGGUILLI: This happened to May 27, 2018.

23 MR. GREEN: It took him that long to sue it?

24 MR. MAGGUILLI: No, they filed a notice of claim
25 and then they've got a year and 90 days from the date

1 they filed a notice.

2 MR. CAREY: Do we have access to her medical
3 records?

4 MR. MAGGUILLI: That's part of one of the first
5 things that we are going to do; in particular, her
6 psychiatric records.

7 It's funny because you read the complaint and in
8 the first cause of action we ripped the keys from her
9 hand and then in the second or third cause of action,
10 she voluntarily gave us the keys to show that she was
11 cooperating and there was no need to pull her from the
12 car.

13 MR. GREEN: What are they alleging as far as
14 damages? How was she damaged?

15 MR. MAGGUILLI: She suffered bruises and
16 contusions and mental health issues.

17 MR. CAREY: Wasn't it late at night, Mike? Was
18 that after midnight?

19 MR. MAGGUILLI: It was after midnight, yes.

20 We're going to do this one ourselves. I don't see
21 any point in shipping this one out. Basically, I want to
22 do a trial.

23 MS. WHALEN: Civil rights violations alleged?

24 MR. MAGGUILLI: Yes.

25 MS. GREEN: What civil rights were violated?

1 MR. MAGGUILLI: Due process of law.

2 MS. WHALEN: Invasion of privacy. *Do they send a
3 psychological evaluation?

4 MR. MAGGUILLI: No, we will get that in discovery.
5 Chris Hummel has the case for now. He's a good guy.
6 The conference is scheduled for August 22.

7 MS. WHALEN: Who is the Judge?

8 MR. MAGGUILLI: Chris Hummel. I'm not going to
9 consent to a magistrate trying the case. I have told
10 Rebekah and I am also doing it as well, to keep tract
11 of her time.

12 MR. GREEN: But she's not going to have any money.

13 MR. MAGGUILLI: Yes, but still. I wouldn't
14 hesitate to file a judgment.

15 MR. GREEN: How old of a woman as she?

16 MR. MAGGUILLI: She's 34 years old.

17 MR. GREEN: That's sad.

18 MS. WHALEN: I once had a judgment to collect in
19 the guy won the lottery in Buffalo. He was a car
20 salesman and it was \$1 million.

21 MR. ROSANO: We had a major success today in the
22 sanitary sewer world. We successfully aligned our
23 portion of Albany Shaker Road completely. There are no
24 leaks and everything is solid and we saved tens of
25 thousands of dollars in repairs.

1 (Whereas the above entitled proceeding was
2 concluded at 6:19 p.m.)
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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.

NANCY L. STRANG

Dated _____