

1 TOWN BOARD

COUNTY OF ALBANY

2 TOWN OF COLONIE

3 *****

4 AGENDA SESSION

5 *****

6 THE STENOGRAPHIC MINUTES of the above entitled
matter by NANCY L. STRANG, a Shorthand Reporter, on
7 July 11, 2019 6:12 p.m. at Memorial Town Hall 534
Loudon Road, Newtonville, New York 12128
8

9 BOARD MEMBERS:

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

14

ALSO PRESENT:

15 Michael C. Magguilli, Esq. Town Attorney
Julie Gansle, Town Clerk
16 Rosemary Newton, Director, Human Resources
Crystal Peck, Esq. Bailey Johnson & Peck
17 John Cunningham, Commissioner, DPW
18
19
20
21
22
23
24
25

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

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

10
11 MR. MAGGUILLI: For dealing with him a little bit
12 later in here.

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

20
21 MS. WHALEN: Who represented us, Rosemary?

22
23 MS. NEWTON: Roemer's office.

24
25 MS. WHALEN: Do we have a written decision?

26
27 MS. NEWTON: Yes.

28
29 MS. WHALEN: Can I get a copy of it?

30
31 MS. NEWTON: Sure.

32
33 SUPERVISOR MAHAN: I don't think I have ever seen
34 that.

35
36 MS. MURPHY: I know I haven't.

37
38 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. MAGGUILLI: 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 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 bidder 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

1 CERTIFICATION
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
1213 Dated _____
14
15
16
17
18
19
20
21
22
23
24
25