

STATE OF NEW YORK COUNTY OF ALBANY

TOWN OF COLONIE

A PUBLIC HEARING IN CONNECTION WITH THE
PROPOSED LOCAL LAW CREATING A NEW CHAPTER
47 OF THE TOWN CODE OF THE TOWN OF COLONIE
ENTITLED AGGRESSIVE AND UNSAFE PANHANDLING

THE STENOGRAPHIC MINUTES of the above
entitled matter by NANCY L. STRANG, a
Shorthand Reporter commencing at 7:12 PM on
August 13, 2020 at Memorial Town Hall, 534
New Loudon Road, Latham, New York

Board MEMBERS:

PAULA A. MAHAN, SUPERVISOR

LINDA MURPHY, DEPUTY SUPERVISOR

MELISSA JEFFERS VONDOLLEN

DANIELLE FUTIA

DAVID GREEN

RICHARD FIELD

JILL PENN

ALSO PRESENT:

MICHAEL C. MAGGUILLI, ESQ., TOWN ATTORNEY

1 JULIE GANSLE, TOWN CLERK

2 (cont.)

3 MICHAEL WOODS, DEPUTY CHIEF OF POLICE

4 MELANIE TRIMBLE, NEW YORK CIVIL LIBERTIES
5 UNION

6 BARBARA RIO-GLICK

7 SONYA RIO-GLICK

8 EMILY CONNOR

9 RYAN HORSTMYER

10 JESSICA MAHAR

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1 MS. GANSLE: This public hearing is
2 being held by order of the Town Board to hear
3 all persons in connection with the proposed
4 Local Law creating a new Chapter 47 of the
5 Town Code of the Town of Colonie entitled
6 Aggressive and Unsafe Panhandling.

7 Notice the public hearing has been posted
8 in the official Town newspaper which is the
9 Spotlight and has been posted on the Town
10 Clerk's bulletin board. I have an affidavit
11 for each. The Town Board will now hear all
12 persons interested in this proposal.

13 MR. MAGGUILLI: Good evening. Supervisor
14 Mahan and Town Board Members, members of the
15 public, my name is Michael Magguilli. I am
16 the Town Attorney for the Town of Colonie.

17 With respect to the proposed Aggressive
18 and Unsafe Panhandling Law. I think I would
19 like to start by saying first and foremost
20 this is a public safety measure. It is nothing
21 more. It is meant to protect the safety of our
22 residents and the panhandlers. The Town has
23 absolutely no desire to infringe upon
24 anybody's free speech rights or their ability
25 to obtain assistance. This proposal came about

1 because of the increasing amount of
2 panhandling that is going on in the Town and
3 the many, many complaints we have received
4 from Town residents that were concerned about
5 the aggressive nature of some of the
6 panhandlers. They requested that the Town try
7 to take some action to protect them. That's
8 all this is. This is the Town attempting to be
9 responsive to its constituents and their
10 concerns.

11 This proposal that we have before us
12 tonight is the Town's response. What I did was
13 when I was asked to look into what if anything
14 the Town could do to address the problem --
15 was look at what other municipalities have
16 done. My office did quite a bit of research on
17 this issue and what we found is that many
18 municipalities had adopted aggressive
19 panhandling statutes trying to address the
20 problem.

21 Our law is based primarily on the
22 aggressive panhandling statute adopted by the
23 City of Rochester. The City of Rochester
24 worked on it for about 10 years before they
25 adopted the final version. I'm happy that the

1 City of Rochester has done most of the heavy
2 lifting for the Town.

3 There was a case called people versus
4 Barton that went up to the New York State
5 Court of Appeals which is the highest court in
6 the State of New York and it was determined to
7 be constitutional. The only difference from
8 our proposed law from the City of Rochester is
9 I added provisions trying to address the Covid
10 19 pandemic requiring panhandling, as they are
11 going to approach someone to solicit funds -
12 that they even do it with the person's
13 permission, but primarily that they have to
14 wear a mask. It doesn't prevent them from
15 approaching them in any other way. It requires
16 that they follow the social safety guidelines
17 issued by the State of New York.

18 In looking at the statute, like the City
19 of Rochester and other municipalities, they
20 made the statute content neutral. It's a time,
21 place and matter restriction only. It has
22 nothing to do with the message or the speech
23 conveyed. Being context neutral, it applies
24 equally across the board.

25 We had people asking me well, will this

1 prevent Girl Scouts from selling their
2 cookies? Will this impact the Salvation Army
3 from ringing their bell outside of stores? It
4 would apply to them if you had aggressive Girl
5 Scouts running into traffic trying to sell
6 cookies, or if you had a Salvation Army Santa
7 Claus doing the same thing. That's what this
8 law addresses. It doesn't address the
9 panhandling. It addresses the unwanted conduct
10 that can go along with the panhandling;
11 nothing more. So, as long as the Girl Scouts
12 or panhandler or a Salvation Army volunteer is
13 standing there passively, holding a sign,
14 ringing his bell, that is not prohibited under
15 this law.

16 The Town had to do something to address
17 this, I think, before it gets worse. That's
18 what we're trying to do.

19 What the Town Board contemplates is not
20 to vote tonight because we wanted to hear your
21 input and incorporate whatever ideas that you
22 have, or objections or any support that you
23 have to the statute.

24 We have received emails, letters both in
25 support and opposition to this proposal. The

1 emails and letters that we have received were
2 primarily in support. We are just focusing on
3 a particular conduct that we have an interest
4 in controlling. Really that's basically it.

5 The law defines what aggressive
6 panhandling is. It follows the First Amendment
7 and guidelines for both State and Federal
8 Constitution and I think by following the City
9 of Rochester's statute that has been ruled
10 constitutional closely, that we are minimizing
11 the risk to the Town. I'm not saying we won't
12 get sued because we may. The chances of
13 success in the 2006 People versus Barton case
14 puts the balance toward the Town.

15 That's really basically all I have as far
16 as the basics and background of this proposal.
17 I would be happy to address any issues that
18 you may have.

19 SUPERVISOR MAHAN: Certainly the Board
20 can express their comments. I just want to
21 say thank you Mike for explaining that.

22 We are not looking to vote tonight. We
23 are far from that at this point. Some of the
24 Board Members have been doing some research.
25 We are looking into a lot of different

1 options.

2 As Mike stated, it is more the aggressive
3 behavior that's causing the problem as well as
4 many, many people's big concern is they are
5 afraid they're going to hit someone in the
6 street. That's one of the main problems, as
7 well. The reality is that for whatever reason,
8 we certainly understand people that are
9 panhandling choose to do that for whatever
10 various reasons and one of the things that we
11 are strongly considering and we want to know
12 as much as we can - that is to find out what
13 is available out there as far as services and
14 things like that. What might be able to help
15 us to get an intervention that could possibly
16 help some people because we can assume that
17 everybody knows that there are services out
18 there for them, but they certainly may not
19 know.

20 So, I know the Sheriff has a program, as
21 well. We have spoken to Sheriff Apple. It is a
22 concern for him, as well.

23 The big question is: How do you resolve
24 it? How do you make the individual aware of
25 what his appropriate, acceptable and helping

1 them versus having people be so concerned.
2 There are lots of different scenarios. It's
3 been interesting of all the research that Mike
4 did and the Board Members, as well. They have
5 all been looking at different options. This is
6 a collaborative effort. We have a long way to
7 go.

8 We also learned about a group that may be
9 able to be helpful. Many of you may or may not
10 know but we are coming up with a proposal for
11 New York State and the Governor's office
12 pertaining to police policies and practices.
13 We have learned at one of the meetings that
14 one of the representatives on the committee
15 that there is a program in the City of Albany
16 and it is called LEADS. So, we are reaching
17 out to them as well to see what kind of
18 options there are. We just have a long way to
19 go. It's a difficult issue. We don't want
20 people to -- certainly you can think whatever
21 you want, but it's not meant to be punitive.
22 It's meant to respond to concerns or also to
23 try to figure out other options to help bring
24 awareness and let people know what's out there
25 - what kind of services and agencies are out

1 there.

2 So, that's where we are right now. The
3 Board Members -- I think some of them want to
4 speak.

5 Rick, I know you want to speak. Melissa
6 had asked to speak, as well. Why don't we
7 start with Melissa and we can go right down
8 the line.

9 MS. JEFFERS VONDOLLEN: I just wanted to
10 say that first and foremost for me, the
11 intent of this Local Law would not be about
12 criminalizing the poor, as the Supervisor and
13 the Town Attorney have addressed. For me,
14 it's more about public safety for both the
15 individuals that are making complaints and
16 are experiencing these things in our Town as
17 well as individuals who are on the streets
18 who are aggressively panhandling. However, I
19 firmly believe that the law could also play a
20 part in the Town developing a multifaceted
21 approach to solving the underlying issues
22 that results in homelessness and aggressive
23 panhandling.

24 As Supervisor Mahan mentioned and some of
25 my colleagues are aware, I have spent the last

1 several weeks researching this topic and
2 networking with various county officials and
3 other local organizations, one of which was
4 HATAS, the Homeless and Travelers Aid Society
5 which actually resulted from another
6 interaction, believe it or not. It is Liz Kidd
7 who is the Executive Director and wanted to be
8 here tonight, but she had a family emergency.
9 So, she wrote in her comments and I will defer
10 to my colleague Jill to address those. The
11 reason I reached out to those and the
12 individuals was to better understand what is
13 currently happening and to share some of that
14 knowledge with my colleagues but also to
15 figure out what programs exist so we don't
16 reinvent the wheel in our own Town.

17 I have also been researching the way
18 other municipalities have creatively addressed
19 the issue. For example, there have been a lot
20 of municipalities across the country who have
21 done various public education campaigns about
22 what you can do versus what you cannot do.
23 There have been other municipalities who have
24 done things such as repurposing unused parking
25 meters and turning them into donation boxes

1 where residents can safely deposit their money
2 and then those funds get turned over to a
3 local organization at the end of the year. One
4 municipality raised \$100,000 doing that and it
5 went directly to an organization who could
6 help go out in the street and get these people
7 off the streets and get them help.

8 There has been other municipalities who
9 have implemented and funded work programs
10 where individuals are sent out to cleanup
11 parks or cleanup roadsides and then at the end
12 of the day - in this particular instance it
13 was a county-funded program, but they actually
14 wound up getting people off the streets and
15 getting same day pay so they didn't have to be
16 on the sidewalks or didn't have to be asking
17 residents for money.

18 I also wanted to touch on the fact that
19 one of our short-term goals in the
20 Comprehensive Plan was to quote: continue to
21 accommodate a provision of a range of housing
22 types in appropriate locations to meet the
23 diverse needs of Colonie's residents, provide
24 incentives to encourage affordability, mixed
25 income developments and multi-generational

1 housing, end quote.

2 One of the sub comments to that - one of
3 the action plans was to perhaps look at the
4 county land bank and to look at zombie
5 properties which would get them back on the
6 tax rolls and possibly provide opportunities
7 to supply affordable housing.

8 I'm saying all this because I feel
9 there's not a one-size-fits-all solution to
10 this problem. That's why I have been
11 committing myself to researching it in
12 bringing back ideas with my colleagues and
13 reaching out to other individuals. I think
14 there are ways that whether or not the Local
15 Law is enacted, the Town can take a proactive
16 approach to addressing the underlying roots of
17 the problems. I don't mind leading that effort
18 and reporting back to everyone.

19 I also think it's clear that this issue
20 is not exclusive to Colonie. I think that by
21 beginning the conversation, we are actually
22 giving ourselves an opportunity to lead by
23 example by having the conversation and by
24 networking with others, reaching out to other
25 local electives and also local organizations

1 to figure out how we can all help each other
2 to help the individuals who are most in need.

3 If I could, I know Rick has a question
4 but my plan was to ask Jill to highlight some
5 of the issues and some of the things that we
6 talked about when we had a Zoom call with Liz
7 Hitt earlier this week because she offered
8 some guidance, as well.

9 MS. PENN: Certainly. It was very
10 insightful to speak to Liz because certainly
11 her experience is based in supporting the
12 homeless community and not only in our area,
13 but other areas as well. She had suggested or
14 offered actually to graciously ask that we
15 postpone taking any action on the Resolution
16 and instead give her and her members of her
17 organization an opportunity to go meet with
18 the people who are on the side of the road
19 and panhandling and looking at this as a
20 solution to their problem. Instead, trying to
21 find out where the need is and what they can
22 do to try to intervene and support these
23 members of our community who obviously need
24 our support.

25 We want to be proactive. We are very

1 grateful that Liz was willing to come and try
2 to help us find a solution because again, her
3 experience is rich and would provide a
4 perspective that obviously as Melissa said
5 we're learning more about as we do our
6 research - her expertise is critical, as part
7 of this process.

8 MS. JEFFERS VONDOLLEN: Plus, it would
9 offer us the opportunity to get some more
10 data from people who are experienced in this
11 field to go out to deploy and speak directly
12 with the individuals and say this is what is
13 being considered. This is what is already
14 happening and give them the option of what is
15 available for - they're obviously best suited
16 in the Town we don't have our own social
17 services department or anything of that
18 nature. That's why think a collaborative
19 effort is needed with or without the Local
20 Law, quite honestly.

21 SUPERVISOR MAHAN: We do have a
22 Community Development Program which helps
23 people with low incomes finding homes and
24 things like that. This is beyond that.

25 Rick?

1 MR. FIELD: I just had a practical
2 question - actually three. One would be -
3 Mike mentioned that many, many complaints had
4 come in. How many, for example, complaints
5 have come in about the panhandling problem
6 and how long has it been a problem? Has an
7 increased occurred since the Covid problem?
8 Where are most of these complaints? What
9 department do they come into?

10 SUPERVISOR MAHAN: Chief Woods is also
11 here and I know the Police Department deals
12 with it a lot.

13 MR. WOODS: In 2019 we had 95 calls for
14 panhandling. That's not aggressive
15 panhandling. That kind of resulted in our
16 office showing great discretion. We
17 understand people are down on their luck.
18 Usually the officers just advise them if
19 they're not on the sidewalk, they're not
20 following the law and they're fine. We really
21 have very few repeat people that we are going
22 to. Out of those 95 calls, it resulted in two
23 arrests which are actually outside warrants
24 from other law enforcement agencies. Six were
25 vehicle and traffic violations relating to

1 pedestrian traffic. Usually we advise them to
2 stay on the sidewalk. From our experience,
3 it's more people handing out money and then
4 they will go up to the motorist take the
5 money. As far as year to date, the number has
6 gone up.

7 We are at 110 calls for this year so far.
8 I will say that since the newspaper article
9 that was in the Times Union, we have probably
10 since that time fielded probably 40 or 50 of
11 those calls. I think people might just think
12 that panhandling is illegal in the Town and
13 that it actually addresses the aggressive
14 panhandling. Out of those 110 calls we've had
15 this year, we've had no arrests but we have
16 had three vehicle and traffic violations in
17 regards to pedestrian traffic.

18 SUPERVISOR MAHAN: In addition we will
19 get some calls from females. Sometimes people
20 don't want to go through the Police
21 Department and they will tell us what the
22 concern is and they are just fearful and
23 don't want to put their name out there, file
24 an action or claim. We get a lot of those.

25 MR. WOODS: We have actually tried to

1 get help in shelters for people that need it.
2 We agree that the resources out there can be
3 very limited. Many times we will get them
4 help and they'll be back there a day or two
5 later in the same spot.

6 MR. MAGGUILLI: Mike, when you say
7 you've got 95 calls in 2019 and 110, those
8 are calls directly to the Police Department,
9 correct?

10 MR. WOODS: Correct.

11 MR. MAGGUILLI: In addition to those
12 calls, Rick, starting about June of this year
13 - I don't know whether it was Covid 19 or
14 what - my office and the Supervisor's office
15 for a time were getting four or five calls a
16 day from people asking us if there was
17 anything that the Town could do. Some more
18 demanding that we take action and others
19 relating what happened to them.

20 I think I told you the story about the
21 lady in Hannaford who was approached and the
22 person demanded two dollars from her. When she
23 wouldn't give him the two dollars, he became
24 nasty and walked away and approached another
25 person. This woman was so frightened, that she

1 didn't go into the store and do her shopping
2 because she was afraid her car would be
3 damaged while she was in the store so she just
4 drove away. That's the type of behavior we are
5 looking to address.

6 There are people who say this does
7 nothing, but criminalize poverty. This does
8 not criminalize poverty. What it criminalizes
9 is the aggressive conduct that can be a part
10 of the panhandling. It can get so bad that it
11 almost borders on extortion in extreme cases.
12 That's what this attempts to address and
13 nothing more. It doesn't stop panhandling, nor
14 is it intended to. Panhandling in a safe
15 location in a peaceful manner is still
16 allowed. So, that's why I don't believe the
17 claim is that we are criminalizing poverty.

18 I also don't believe that you can use
19 other laws -- people claim there are other
20 laws that exist that can address the issue and
21 there's no need for this type of Local Law.
22 That's just not true. If you look at the
23 statutes that people most frequently refer to,
24 ordering, harassment and disorderly conduct,
25 the loitering statute which specifically made

1 it a crime for the purpose of begging was
2 found unconstitutional and that's gone. The
3 disorderly conduct statutes have a public
4 component plus an intent component that
5 typically are not found in these types of
6 situations.

7 With harassment, again there is an intent
8 component that's not found in this Local Law
9 that we need to be able to approach and try to
10 get the people to voluntarily initially stop
11 the conduct they were complaining of.

12 As a practical matter, if these other
13 laws that exist on the books and have existed
14 on the books for over 100 years could be used
15 to combat aggressive panhandling, why would
16 all these other municipalities across the
17 state and across the country be adopting these
18 statutes? If I thought we could use dis con or
19 harassment to address this, I would not have
20 gone to the trouble to put this forward. It's
21 a matter that I believe is needed to protect
22 the residents of the Town.

23 SUPERVISOR MAHAN: Thank you, Mike.

24 Anyone else?

25 (There was no response.)

1 Anyone in the audience?

2 MS. TRIMBLE: My name is Melanie Trimble
3 from the New York Civil Liberties Union in
4 the capital region. The New York Civil
5 Liberties Union is the state affiliate of the
6 ACLU. We oppose this proposed law because it
7 will infringe on State and Federal
8 Constitutional rights.

9 Since 2015, every panhandling ordinance
10 challenged in Federal Court including many
11 with elements that mirror those proposed here
12 has been found constitutionally deficient
13 and/or has been repealed. In addition, at
14 least 31 other localities have appealed their
15 panhandling ordinances because of the
16 likelihood that they infringed on the First
17 Amendment of free speech rights. Simply put,
18 the First Amendment clearly protects peaceful
19 requests for charity in a public place. Yet,
20 in this proposal's statement of purpose, Town
21 officials specifically claim their intent is
22 to discourage people from publicly asking
23 their neighbors for help. The proposal singles
24 out speakers based on the content of their
25 speech which courts have ruled consistently to

1 be illegal.

2 Also, extremely similar ordinances have
3 been stricken down as overbroad because they
4 duplicated existing criminal laws. Everything
5 in this proposal here can rise to the level of
6 criminal misconduct is already penalized by
7 existing laws that prohibit harassment,
8 disorderly conduct and menacing. Everything
9 the proposal purports to add beyond such
10 behavior either falls below the line of
11 conduct that can be permissibly penalized or
12 improperly attempts to regulate the location
13 of solicitation.

14 Besides the fact that it almost certainly
15 violates free-speech rights, the proposed law
16 is also bad policy. It is poorly tailored to
17 the problem it purports to solve. The Town has
18 the opportunity to consider other policy
19 solutions. Many communities have created
20 alternatives that were more effective. We cite
21 them in the extended written testimony that we
22 are also submitting and we urge the Town Board
23 to consider them and I am heartened by the
24 fact that you are already pursuing other
25 alternatives to criminalization.

1 We can all agree that we would like to
2 move toward a world in which homeless and
3 impoverished people are not forced to beg.
4 whether examined from a legal policy or moral
5 standpoint, criminalizing any aspect of
6 panhandling is not the way to achieve this
7 goal. We urge the Town Board to reconsider any
8 attempt to criminalize solicitation and
9 instead to seek solutions that ameliorate
10 conditions they give rise to it. Thank you.

11 SUPERVISOR MAHAN: Anyone else?

12 MS. BARBARA RIO-GLICK: Good evening. My
13 name is Barbara Rio-Glick. As a resident of
14 the Town of Colonie, I want to go on record
15 as being vehemently opposed to the proposed
16 legislation that is labeled aggressive and
17 unsafe panhandling.

18 Although Mr. Magguilli said that the
19 legislation is only for safety, if you read
20 the legislation carefully you will see that
21 this is clearly not the only concern.

22 Just hearing from the officer or from the
23 attorney that there had been 40 or 50 calls
24 since the Times Union article went out, it
25 seems very clear that there are people who

1 would like to still use the law to stop
2 panhandling in general.

3 As our representative of the ACLU said,
4 that is unconstitutional. This additional law
5 seems designed rather than just being about
6 aggressive and unsafe panhandling - designed
7 to rid our community of those who don't embody
8 the supposed quality of suburban life rather
9 than to prohibit only aggressive behaviors. If
10 that were the case, the Town has had 200 cases
11 in the last year the police have been able to
12 solve peacefully. Why do we need this law if
13 200 cases have gone fine with no arrests?
14 These are people who moved on or did what they
15 were told to do and there was no need to
16 arrest those people. I don't see why this law
17 is necessary. It is both unconstitutional,
18 based on free speech, as well as
19 discriminatory towards the people who
20 panhandle to survive.

21 It was mentioned there were numerous
22 cases since 2015. I sent an email earlier
23 today citing some of those cases in some of
24 the case law. I hope people have taken the
25 time or will take the time to read those.

1 Just a few things about the law. There is
2 a hitting or aggressive behavior manner. This
3 proposed legislation says it prohibits both
4 approaching within an arm's length of the
5 person or coming within 6 feet of the person
6 violation of the social distancing
7 requirements necessitated by the current
8 pandemic. I don't know about you, but I've
9 been doing a lot of walking in the last
10 several months. I have walked to a number of
11 Town parks here in Colonie. People have come
12 within 6 feet of me and often without masks.
13 Am I allowed to call police and have those
14 people arrested? How is that aggressive
15 behavior, or is that only aggressive behavior
16 if it's poor people who are behaving that way?
17 If I cannot use that as a reason to have
18 someone arrested, why can other people do that
19 to poor people?

20 I also think that this law could be
21 applied in a racially discriminatory manner.
22 Also under that same heading of aggressive
23 behavior, it states: approaching the person
24 being solicited in a manner that is likely to
25 cause a reasonable person to fear eminent

1 bodily harm, or is likely to intimidate the
2 person being solicited.

3 I think it's clearly subjective and what
4 intimidates one person does not intimidate
5 another. Feelings of intimidation are often
6 based on implicit biases. We have seen in many
7 recent examples that white people feel
8 threatened by people of color for doing such
9 benign things as jogging, or birdwatching.
10 Studies have shown that white people and
11 Police Officers are most often afraid of black
12 people, which would lead to believe to bias
13 enforcement of this law.

14 So, based on these factors, I think the
15 Town would be at risk for legal action if this
16 law is passed. Actually, since they're already
17 on the radar of the ACLU, given there was a
18 representative here tonight, I think that you
19 can expect a challenge.

20 From a financial standpoint, do we really
21 want to allocate their resources of the Town
22 attorney and the staff to fighting this law
23 when we found that the police have been able
24 to handle these situations adequately already?

25 From a human standpoint, my belief in the

1 ultimate goodness of people, my experience as
2 a member of the Colonie community as a kind
3 and compassionate community leads me to ask:
4 can we extend this compassion and caring to
5 those who are less fortunate among us?

6 I am glad to hear from various people on
7 the Town Board that they are thinking about
8 other solutions, but I don't understand why we
9 need this law. Why can't we allocate the
10 resources to those services to those programs?

11 I've been a social worker for almost 25
12 years and my experience in working with the
13 homeless is I have found that there are many
14 reasons people are homeless. They have mental
15 health issues that go untreated. They have
16 substance abuse issues that go untreated. They
17 are a victim of domestic violence when have
18 fallen upon hard times and have been unable to
19 pay their housing costs.

20 With regard to the first three, I suspect
21 that there is no one among us who can count
22 among their friends and family someone who has
23 a mental health issue, substance abuse issues
24 or victims of domestic violence. Would we want
25 those people punished for those unfortunate

1 situations? Does it make sense to fine and
2 jail people for experiencing these and punish
3 them for situations which they may not have
4 been able to receive treatment? Ultimately, it
5 is beyond their control.

6 As for number four - hard times - we are
7 in a time now where the rate of unemployment
8 has skyrocketed. The number of people involved
9 in this last category is rapidly increasing.
10 Instead of criminalizing and trying to avert
11 our eyes from this, can we instead find ways
12 to show compassion? Could we instead find ways
13 to put in place more treatment programs and
14 services without having this law to help
15 people who would be less likely to resort to
16 standing at the Target mall in the heat or the
17 snow? Let's not join the other American cities
18 and towns that have been attempting to
19 aggressively criminalize panhandling in hopes
20 of as this proposed legislation states,
21 preserving the quality of suburban life. If we
22 do, we are sending expressions of poverty and
23 desperation as a nuisance, rather than
24 addressing the systems that place these
25 individuals in dire straits. I believe Colonie

1 is better than this and ask that we instead
2 focus our energies on helping, rather than
3 arresting in finding the poor person.

4 SUPERVISOR MAHAN: Thank you.

5 MS. SONYA RIO-GLICK: Good evening. My
6 name is Sonya Rio-Glick. I am an immuno
7 compromised resident of the Town of Colonie,
8 risking my health and safety to be here to
9 express my strong opposition to the proposed
10 chapter entitled quote Aggressive and Unsafe
11 Panhandling.

12 I bring to this conversation experience
13 of having worked as an intensive case manager
14 serving 63 houseless individuals many of whom
15 relied on panhandling as a last resort to have
16 basic needs met in a world of values as
17 statics and growth of capital over human
18 health and well-being.

19 I will reference various parts of the
20 proposed legislation to demonstrate that this
21 too prioritize aesthetics and capital growth
22 over human health and well-being. I must first
23 point out that this legislation uses the Covid
24 19 pandemic as justification for criminalizing
25 impoverished individuals. It bears repeating

1 that in the case that this is passed, the Town
2 of Colonie is criminalizing members of our
3 community, regardless of so-called intent. If
4 our time and collective resources were
5 entirely spent on housing and feeding
6 individuals who resorted to panhandling, we
7 would not be needing to discuss legislation
8 such as this because there would be no
9 panhandling individuals to criminalize in the
10 first place.

11 The first sentence of Section 2 quote,
12 legislative intent, end quote, names the goal
13 of keeping quote public places attractive, end
14 quote, which denotes that the primary reason
15 to restrict panhandling is because the public
16 presence of low income community members is
17 unattractive. Instead, impoverished
18 individuals are being criminalized because the
19 image of poverty is deemed unattractive. May
20 we all be so lucky to never be deemed so
21 unattractive and not allowed in public. As a
22 physically disabled person, the employment of
23 attractiveness of public space strikes a
24 chord, as not so long ago in our country a set
25 of laws commonly referred to quote the ugly

1 laws prohibited disabled and impoverished
2 people from being in public. The value of
3 quote promoting tourism directly contradicts
4 the reality of the pandemic as it is not sound
5 for travelers to be visiting our community at
6 this time.

7 The paragraph argues that without such
8 legislation in place, people quote avoid
9 public and private places and lead to
10 declining patronage of commercial
11 establishments and tourism. Blaming
12 panhandling for this decline is to scapegoat
13 our community's most vulnerable in a time of
14 more general economic strain due solely to
15 Covid 19. The bill's definition of quote
16 aggressive behavior or manner is vague and
17 assuming that the only individuals present are
18 the panhandler in one or two others leaves
19 room for the truth to be distorted.

20 Impoverished individuals are
21 disproportionately disbelieved by law
22 enforcement, which leads to arbitrary arrests
23 and criminalization.

24 For example, Section A and Section D on
25 Page 2 both mention quote recklessness, but

1 recklessness is not defined.

2 As a person with a physical disability,
3 affluent individuals in our community have at
4 times touched me without consent which is
5 violating even when seemingly benign simply
6 because they are nervous by my disabled body
7 in a public space. Is this violation of
8 personal space and bodily autonomy not also
9 reckless? Where is the legislation about those
10 violations? Bypassing such vague terms into
11 law, law enforcement must decide which again
12 is a group that disproportionately disbelieves
13 impoverished people.

14 Furthermore, Section B on Page 2 mentions
15 school causing a reasonable person to fear
16 imminent bodily harm, end quote, without
17 defining who is respected as a reasonable
18 person. It implies that the act of panhandling
19 is not reasonable, but a response to it is.
20 because fear is a subjective human emotion,
21 passing into law that individuals fear whilst
22 criminalizing another allows people to be
23 criminalized without ever having violated the
24 law or public safety.

25 Few based police calls have resulted an

1 unjustifiable preventable acts of harm against
2 black individuals across the country.

3 An example of this is the shooting of
4 Alton Sterling in Louisiana, a black man who
5 was shot multiple times by law enforcement
6 after a call was made about a separate
7 disturbance. By legally protecting and
8 justifying any type of fear response call, we
9 condone similarly arbitrary responses and
10 welcome the possibility of similarly
11 reactionary behavior in the Village of
12 Colonie.

13 Moreover, Section G condemns quote
14 occupying a location readily visible to
15 occupants of a motor vehicle out in an
16 intersection, roadside or curb of a public or
17 private street or a parking area, end quote,
18 as aggressive in and of itself which proves
19 the legislation is about criminalizing
20 impoverished individuals reliant on
21 panhandling because the area someone is
22 standing in outside is not inherently
23 aggressive.

24 The inclusion of Section G effectively
25 deems all panhandling aggressive regardless of

1 the individual's actions because the locations
2 listed are frequented locations of panhandling
3 activity that is peaceful in nature.

4 Lastly, there are several more affluent
5 residents of the Town of Colonie in the
6 capital region at large who have not adhered
7 to basic Covid 19 safety measures in both the
8 public and private sphere who are not under
9 legal scrutiny or criminalization of any kind,
10 like that which this document imposes. This
11 lack of adherence includes but is not limited
12 to lack of or resistance to properly or
13 consistently wearing facial coverings in
14 public space, failing to keep a 6 foot
15 physical distance between themselves and other
16 parties, failing to properly socially distance
17 or quarantine in private living quarters and
18 subsequently entering public space to
19 potentially expose others and engaging in
20 unnecessary social and luxurious public
21 activities that put others at like myself at
22 risk. The obvious lack of legal action to curb
23 the actions of the more economically affluent
24 exposes the thinly veiled classism that is at
25 the core of the proposed chapter of aggressive

1 and unsafe panhandling.

2 I hope the testimony of myself and others
3 who oppose this waste of time cause you, our
4 local leaders, to examine the class biases and
5 exclusionary behaviors I have outlined here.

6 Thank you for your time.

7 SUPERVISOR MAHAN: Thank you, very much.

8 MS. CONNOR: Hi, my name is Emily
9 Connor. I work in Colonie and I have close
10 friends who reside here, as well.

11 I'm here to express my opposition to the
12 proposed legislation entitled aggressive and
13 unsafe panhandling. This legislation is
14 intended to quote protect persons from
15 threatening, intimidating or harassing in
16 nature, to keep public places safe an
17 attractive for the use by all members of the
18 community and to maintain and preserve public
19 places where all the community can interact in
20 a peaceful manner, end quote.

21 Although this may be the intent of the
22 legislation, it presumably would not be the
23 outcome. First, deeming panhandling as
24 threatening, intimidating or harassing in
25 nature is entirely based on perception. One

1 way in which this legislation defines
2 aggressive behavior or manner describes an
3 individual occupying a location readily
4 visible to occupants of a motor vehicle while
5 they are soliciting. This is defined as
6 aggressive behavior or manner because of the
7 possibility of distraction to drivers.
8 However, one could argue that any
9 advertisement, billboard or even pedestrian
10 could present the same possibility of
11 distraction to a driver.

12 Additionally, this section of the
13 proposed legislation is attempting to regulate
14 the use public space that is intended for the
15 public. That includes individual tourists or
16 panhandling.

17 Second, the legislative intent to keep
18 public places safe and attractive relies
19 entirely on the assumption that panhandling is
20 dangerous in nature. Again, this is completely
21 based on the perception of the individual
22 being solicited too. As a result, the only
23 foreseeable way for this to be enforced would
24 be through a call to the police made by the
25 person who is being solicited to. Not only

1 does this present a he said/she said
2 situation, it also criminalizes poverty. It
3 will criminalize poverty when the outcome is
4 going to be a minimum fine or eventually
5 possible jail time. This is inherently unsafe
6 for poor people, due to the fine or eventual
7 jail time. This begs the question: Who is this
8 legislation intended to keep safe, if not all
9 members of the community?

10 I fear that the second part of the
11 legislative intent, which refers to keeping
12 public places attractive is a more significant
13 intent of this proposed legislation. I think
14 it's easy to feel uncomfortable facing the
15 fact that poverty exists. For local law such
16 as this one gets passed, then those in poverty
17 may be forced out and as a result, the comfort
18 of the general public may be preserved, but at
19 what cost? When we push out those in need for
20 our own comfort, we sacrifice an important
21 part of our humanity.

22 Third, this legislation aims to maintain
23 and preserve public places where all of the
24 community can interact in a peaceful manner.
25 The public places mentioned here will not be

1 maintained and preserved for the entire
2 community if we begin to prohibit certain
3 members of the community from utilizing the
4 space for solicitation or in other words for
5 the expression of free speech. The entirety of
6 the community will not be safe if we
7 criminalize the struggles with those in need.

8 Lastly, I would like to point out the
9 throughout this legislative proposal, the use
10 of aggressive and unsafe panhandling is
11 eventually dropped. For example, it reads
12 quote no person shall solicit in a parking
13 area as defined in this chapter, end quote.
14 According to the National Homeless Law Center,
15 a nonprofit dedicated to ending in preventing
16 homelessness, the Supreme Court and lower
17 courts have repeatedly found that asking for
18 help is protected speech under the First
19 Amendment. Therefore, prohibiting solicitation
20 may be deemed unconstitutional.

21 I will leave you with one more statement
22 from the National Homelessness Law Center.
23 Anti-panhandling laws fail to address the
24 underlying causes of homelessness and poverty
25 in the community and will in fact make it

1 worse by putting arrest records, fines and
2 fees in the way of those trying to exit
3 homelessness. When we say all members of the
4 community, let's act and interests of all
5 members of the community. Thank you.

6 SUPERVISOR MAHAN: Thank you.

7 MR. HORSTMYER: Ryan Horstmyer,
8 H-O-R-S-T-M-Y-E-R.

9 Good evening members of the Board. I'm
10 here to speak in favor of the Town's efforts
11 to address what is clearly a public safety
12 issue. I'm just speaking from personal
13 experience. My wife and I travel to Albany
14 every day. I know the location that I am about
15 to describe is not in the Town of Colonie, but
16 the Interstate 90/Everett Road overpass is one
17 of the common areas that I think we are all
18 familiar with panhandling in the area. She and
19 I every day worry that somebody in the small
20 median which is certainly not built for
21 pedestrian access is one day just going to be
22 the site of a tragic accident. So, I think
23 it's important for the Board to take action.
24 Understanding your perspective that you're
25 hearing from some folks that haven't spoken

1 tonight, but obviously have spoken on the
2 record to you about their concerns, it's
3 better safe than sorry to start the
4 conversation and try to address the issue. I
5 commend you for taking action on the vehicle
6 safety matter specifically.

7 I think we can all envision scenarios
8 where - I have seen myself recently just two
9 nights ago where some folks who were stopped
10 in traffic or traffic should be moving and
11 folks were stopped and were interacting with
12 one another out the window. I certainly
13 sympathize with the folks were out there and
14 need. I think it's very, very important and I
15 think the Town is taking steps in the right
16 direction specifically for vehicle safety to
17 ensure that pedestrian traffic ways and
18 vehicle traffic ways are kept separately. I
19 think it's very important and I am glad to see
20 the Town taking those steps.

21 Secondly, I just want to speak personal
22 thoughts for what it's worth of the public's
23 consumption about the Town officials and
24 tensions on this effort. I have known many of
25 you for almost 20 years in a couple instances

1 and for a couple others maybe not quite as
2 long prefer significant amount of time,
3 knowing your backgrounds professionally. I
4 trust that your intention is here to not
5 exceed any kind of reasonable standard with
6 criminalization.

7 I've had my own conversation with
8 Councilwoman Jeffers-VonDollen and I am
9 encouraged by the comprehensive efforts that
10 you have been making since the Supervisor
11 discussed and has been discussed as well. I
12 would like to commend you for that and I think
13 it's very important to keep our eye on that
14 future action you're trying to do.

15 It is also worth noting that the Town is
16 essentially not a public social services form
17 of government. there are some functions as the
18 supervisor described but where the county and
19 state governments can step in and where you
20 folks can call on those efforts. I think that
21 should be encouraged. The efforts already I
22 think should be commended. I want to thank you
23 for your continued efforts in that regard. Of
24 course, the Police Department is quite a
25 professional institution itself. I think they

1 are very well trained and very well kept up to
2 standards and I trust these folks as well to
3 implement any policies the Town eventually
4 does develop and I wish the Town Attorney well
5 with his work to craft the right solution. I
6 thank you for your time.

7 SUPERVISOR MAHAN: Thank you, Ryan.

8 MR. MAGGUILLI: I would just like to
9 address one thing. The issue of whether
10 panhandling is protected speech and of the
11 First Amendment is not a subtle issue. The
12 courts both federal and state on both sides
13 of the issue - the United States Supreme
14 Court has not addressed the issue, although
15 in the past it has the opportunity, it has
16 declined to take the cases. Regardless of
17 whether the panhandling is considered
18 protected speech under the First Amendment or
19 not, the statute that is before you was
20 written with the assumption that it is, or
21 with the assumption that sometime in the
22 future a court would rule - the US Supreme
23 Court would definitively rule that
24 panhandling is protected speech under the
25 First Amendment of the Constitution.

1 With that in mind, this was again drawn
2 conceding that issue. I drafted it that way.
3 Again, I was trying to be as conservative as
4 possible. We are not attacking the content of
5 speech with this law. There is no mention of
6 expression or what is said - that is
7 absolutely irrelevant to this proposal. Again,
8 all it does is it addresses the unwanted
9 aggressive behavior that is engaged in by some
10 panhandlers and not all and it addresses the
11 safety issue - the location when the
12 panhandling occurs. In both New York State
13 Courts and Second Circuit Federal Court have
14 ruled that the towns and municipalities have
15 legitimate interests and a strong governmental
16 interest in protecting his residence in
17 certain locations.

18 There was a case in the People versus the
19 New York City Transit Authority where the
20 Second Circuit ruled that the Transit
21 Authority could prohibit all panhandling in
22 the subway system of New York.

23 Other cases have ruled that laws
24 prohibiting panhandling in airports, in front
25 of post offices on the sidewalk were all

1 constitutional. All these laws have in common
2 a transportation component that because of the
3 nature of what the citizens are engaged in -
4 looking to catch a subway or looking to catch
5 a plane -- that panhandling could be
6 distracting and it could be dangerous for both
7 parties. So, the New York Courts have
8 consistently ruled that the towns - the
9 municipalities, or the public authority have
10 the right to address the issue in those
11 situations. Again, that's what we do. We don't
12 have subways, but we have streets. What this
13 law attempts to do is to make our streets
14 safer. Safer not only for our residents, but
15 for the panhandlers themselves. We've had
16 cases where people call and complaining that
17 the panhandlers are running into the
18 middle-of-the-road by the circle. They swerved
19 and they almost got into an accident. Why
20 can't we prevent that? Where the police?
21 Again, it's the content of their conduct that
22 this addresses and nothing more.

23 MS. FUTIA: I think it's also important
24 just to point out that one person's
25 experience with the panhandler may differ

1 then another person's experience. I don't
2 speak for everybody on the Board, but I don't
3 think anybody on the Board is trying to show
4 any sort of disrespect or again we're trying
5 to criminalize panhandling. We do have to
6 take both sides and create the best Local Law
7 that we possibly can that is going to show
8 respect and safety for everyone that is
9 involved.

10 MS. MAHAR: Hi. I'm Jessica Mahar;
11 M-A-H-A-R and I want to say thanks for having
12 this hearing and thanks to Melissa who I have
13 spoken to about this. I always appreciate how
14 you do so much outreach on these issues. So,
15 thank you for that.

16 I also wanted to thank the other speakers
17 - the representative of NYCLU and Barbara and
18 Sonya and Emily who spoke earlier. I can't say
19 the things that I was going to say because
20 they said them 20 times better, or I would.
21 So, thank you.

22 I also want to thank the Board for
23 talking about your intent because I think
24 that's really important. I respect the
25 intention of trying to solve a problem that

1 has come before you as a Town Board. However,
2 I think that we have an issue here with the
3 intent of the Town government in the execution
4 of how this law reads and what this law
5 actually means as it is set forth in the
6 legislation that has been proposed.

7 There was kind of a joke made earlier
8 about this only applied to aggressive Girl
9 Scouts. I used to be an aggressive Girl Scout.
10 Actually, I don't think that's true. Section G
11 - the definition talks about occupying a
12 location at an intersection, roadside, median
13 or curb of a public or private street or
14 parking area while soliciting, asking for
15 contributions. So, what about those guys that
16 stand outside of plazas with spinning signs
17 asking people to common shop? They're asking
18 for money. They are certainly distracting.

19 I drove through Central Avenue a few
20 years ago on my way home from the grocery
21 store and the firemen were out with their
22 boots. They were passing their boots around
23 traffic collecting money for the firehouse.
24 Okay, fine. there in the middle of the darned
25 road. So, that's illegal here.

1 The youth clubs that have carwashes in
2 the parking lot of wherever on a Saturday or
3 Sunday - they hold up signs along the road and
4 ask people to come give them money to support
5 their sports team or club or whatever they
6 are. That's illegal under this proposal.

7 We talked about the fact that this isn't
8 intended to make all panhandling illegal. Find
9 a spot in the Town of Colonie that you can
10 Panhandle with this law. There isn't one.

11 So, I really want to thank all of you in
12 particular Melissa who again I know is doing a
13 lot of work on this for the outreach to
14 experts on the underlying issues that cause
15 this problem for our Town, because I
16 understand it's difficult and we have serious
17 issue which is poverty and probably some
18 crime. The way you solve that is not adding
19 more crimes to the books. It's to address the
20 issues that these people are facing that is
21 motivating them to engage in this activity.

22 I really was excited to hear about the
23 work that you're doing with these other
24 organizations in the outreaches that are going
25 on. There are a lot of people in the capital

1 region with strong expertise with homeless
2 people and poor people. I also really
3 appreciate Melissa - your comment about the
4 Comprehensive Plan. I worked on the committee
5 that created the Comprehensive Plan and I
6 really want to see as we develop more housing
7 in our community - public spaces for more
8 residents - has an opportunity for people that
9 aren't of middle or high income. So, I really
10 appreciate you thinking about how we can make
11 good on the Comprehensive Plan also as part of
12 the strategy to this issue. I am also thanking
13 the Board tonight for not voting on this
14 tonight. I think it's deeply flawed, as
15 written. I'm glad to hear the intent, but it
16 would be irresponsible to adopt this law as it
17 is written today. So, thank you.

18 SUPERVISOR MAHAN: Anyone else?

19 (There was no response.)

20 I just had a few comments. First of all,
21 thank you very much for your comments. It is
22 pretty typical that people have opposing
23 thoughts on these things and they usually show
24 up at meetings and we appreciate that. We
25 appreciate that you all showed up with your

1 masks and are doing what we need to do to all
2 stay safe.

3 I want to just put a little plug out
4 there first of all for our Police Officers
5 because I just want you to understand how well
6 they do their jobs. Through the years - I've
7 been here for 13 years and before that my
8 husband was an officer. So, it goes way back
9 to the 1970's, actually. I can tell you that
10 one of their strengths is trying to
11 de-escalate situations, trying to help people
12 learn that there is another side to what they
13 do. A lot of that is community service. They
14 do an outstanding job with that. They are
15 working very hard with us on the proposal for
16 the Governor. I know that nothing was meant in
17 any malicious way -- I just want people to
18 understand what a great job they do.

19 Speaking just from me, I spent my whole
20 career and education before this position. All
21 the years - 25 years, I worked very hard on
22 bringing inclusive education with children of
23 special needs and varying disabilities - not
24 only to North Colonie Central school district,
25 but also to other local school districts. It

1 is a very, very long process. Any time in
2 looking at something like this -- and Mike
3 worked hard to try to take a look at all the
4 aspects that were out there and I think that
5 it's a matter of interpretation as a matter of
6 perception. Of course, emotional feelings come
7 into play also.

8 The intent of the work that he did was to
9 protect not only the residents of Colonie, but
10 panhandlers also.

11 Certainly, we had no intention of voting
12 tonight. It's probably going to be quite a
13 while before we come to a conclusion. That's
14 what this first public hearing is all about -
15 gathering feedback from you guys. Getting back
16 to trying to change behaviors is extremely
17 difficult. The services that are out there are
18 limited. As far as housing, it's very
19 difficult to find appropriate housing that's
20 available. It is unfortunate.

21 We are strong advocates for the Soldier
22 On program for homeless veterans, which is
23 going to be here in Colonie, which is an
24 outstanding program. I visited it in
25 Pittsfield and they just do wonderful things.

1 It's wonderful to see people go through the
2 program and become independent working and
3 back into society. So, there are a lot of ways
4 to look at this, but from my perspective and
5 my background, I understand that it takes a
6 lot of research and Melissa and everyone else
7 who did extra research on this - I know the
8 Board Members are not dumb, but it takes a lot
9 of research and it takes looking at things
10 from so many different angles for every single
11 case. There's always another way or another
12 variable that is there and you have to work
13 with and it changes continually. I do want you
14 to know that our interest is trying to be in
15 the best interest of everyone. We are an
16 exclusive community. We are very proud of our
17 community. We do a lot in many different ways
18 to help people in need. So, we are going to
19 look at this very, very carefully and continue
20 to gather research. We are going to look at
21 legal research as well. We're going to
22 continue to look at options and collaborate
23 with other municipalities, especially local
24 county and state who have more resources than
25 we do. We often work in our own fields and we

1 deal with just certain things because they are
2 on our caseload or right there with us. This
3 is not just an issue for Colonie. It's an
4 issue throughout the whole country.

5 We certainly want you to understand that
6 we understand poverty. We understand these
7 individuals experience this. We also
8 understand how difficult it is to dig your way
9 out from poverty. It's one of the most
10 challenging things for any individual. We will
11 be looking at this from all different aspects.
12 We just want you to know that we appreciate
13 your feedback. There are always different
14 sides and perspectives.

15 Some of you have brought up some really
16 good points that make a lot of sense. There
17 are certain aspects -- those are the kinds of
18 things that help us because it helps us in a
19 different way, in order to come up with
20 different solutions or to lead us in another
21 direction of research. We appreciate that.
22 That's what this is all about. It's the
23 dialogue back and forth. It's coming up with
24 options and what works best. We thank you very
25 much for your feedback. We appreciate it. We

1 will take it all into consideration. The
2 Police Department work side-by-side with us
3 along with our legal office the Board. We will
4 continue to look at things and see what
5 options are out there, as well.

6 We will not, as we said earlier, there
7 will be no mention of votes on this tonight. I
8 just wanted to let you know that. We won't
9 close the public hearing because there will be
10 further input as this goes along. We will keep
11 the public hearing open. There is no date at
12 this point. Some of the people, especially
13 Melissa and Jill have had conversations about
14 the individual - who will take some time to do
15 her work and her research and reaching out.
16 This could go on for quite a while. we will
17 just hold the public hearing open.

18 We will make a motion to keep it open
19 tonight until we come to a conclusion.

20 MS. JEFFERS VONDOLLEN: I will make the
21 motion to adjourn the public hearing and
22 leave it open.

23 MS. FUTIA: Second.

24 SUPERVISOR MAHAN: Supervisor votes aye.
25 Clerk, call the roll.

1 (The roll was called.)

2 MS. GANSLE: The ayes have it, Madam
3 Supervisor.

4 SUPERVISOR MAHAN: The Resolution is
5 adopted.

6 Thank you, very much for attending.

7 (Whereas the above entitled proceeding
8 was concluded at 8:15 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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