

**September 9, 2019**  
**Alexander Town Board Regular Meeting**  
**Alexander Town Hall 7:00 p.m.**

Present: Supervisor Joseph Higley  
H'way Supt: Tom Lowe  
Town Board: David Miller, Carol Wolfley, Roy Haller III, Eric Wagner  
Town Clerk: Shannon Tiede  
Deputy Clerks: Laura Schmieder; Katherine Fix  
Absent:  
Guests: Brandon Snyder, Tom Green, Steve Mountain, Matt Mahaney, Joe Zajackowski, Elizabeth Wagner, Marge Kelsey

Supervisor Higley called the meeting to order at 7:00 p.m. with the Pledge of Allegiance and a moment of silence for our military serving around the world.

On motion by Councilperson Miller, seconded by Councilperson Wolfley, and carried, the minutes of the August 12, 2019 regular meeting were adopted.

5 – Yes Higley, Miller, Wolfley, Haller, Wagner 0 – No Carried

Marge Kelsey and Elizabeth Wagner came to speak to the Town Board to request more money from the town for the Alexander Cemetery Association. Their expenses per year are approximately \$2500.00 for mowing, trimming etc. In approximately ten years they will be out of money and would have to turn the cemetery over to the town to maintain. The town has been providing them with a donation yearly. This year was in the amount of \$800.00 and the association is looking for the town to increase that amount. The board advised them that the monetary request would be discussed during budget time.

Tom Green came to the Town Board to express his interest in the Alternate Planning board position. He is very active in the community and is looking to get more involved with the town.

**COMMUNICATIONS:** Mercy EMS for July 2019, BJ's membership is being cancelled, Labella is hosting an Abort at the port cocktails and hors oeuvres, Notice for meeting with the Army Corps to discuss log jams, Flood project meeting invitation @ E. Amherst fire hall on Sept 19.

**REPORTS:**

**CEO/ZEO:** Matt Mahaney and Brandon Snyder spoke to the board about the Planning board's thoughts about the Solar Energy Draft and the petition from Anthony Batog. They have set up a joint Town and planning board meeting for September 23<sup>rd</sup> at 7pm. Matt Mahaney also advised the board that he is moving forward in dealing with five local properties that are not being kept up by homeowners.

**Building:** Waiting on the school for lines in the parking lot

**Clerk:** Advised board on what we learned at the Grant meeting in Batavia and that Kayte Fix may be interested in the records clerk position.

**Dog Control:** Enumeration letters have been sent

**Financial:** Supervisor Higley went over the negative balance report

**GAM:** Meeting on September 19<sup>th</sup>

**H'way. Supt:** Cab and chassis showed up in Watertown, will be checked out by Mack and sent to Henderson for plow and equipment; reset erosion on Peaviner; cleaned ditch on Cookson; town highway has enough funds left to pave about ½ of Sprague Rd and will do the remainder in 2020. Tom expressed interest in taking his crew to Draves Tree Trimming academy in October.

The Town Clerk and Town Justices' financial reports were read and filed.

**OLD BUSINESS:**

1. Water District #5: Plans are being finished. Steve Mountain proposed for the board to accept a bid from O'Donaghue for the boundary survey in the amount of \$2400.00. Residents will not see an increase on their tax bills until the water is ready to be turned on.
2. Water District #6: Steve Mountain and Supervisor Higley met with Dawn Kuras to get paperwork signed for the grant through Rural Development.

**NEW BUSINESS:**

**RES. NO. 61: EXEMPTION FROM ZONING- WATER TANK PLACEMENT**

**WHEREAS**, the County of Genesee has begun the process to provide additional water capacity for the county-wide water system in the amount of approximately 2.4 million gallons per day to be supplied from the Monroe County Water Authority, as set forth in a document entitled "Engineering Report for the Genesee County Phase 2 Water Supply Project"; and

**WHEREAS**, the Town Board of the Town of Alexander, New York, has duly adopted a resolution directing the Supervisor of the Town of Alexander to file a map, plan and report for an improvement of facilities to

Water District No. 5 consisting of a 500,000 gallon water storage tank and booster pump station which will be constructed along NYS Route 20; and

**WHEREAS**, upon approval of the Town Board, the Town has entered into a Purchase and Sale Contract with John L. and Valentine Hale for their property known as 2609 Broadway Road in the Town of Alexander, Genesee County, New York, also known as part of Tax Map No. 7.-1-1.1, with an Approximate Lot Size of .32 acres and an easement across parcel directly to the west of said parcel; and

**WHEREAS**, the Town of Alexander wishes to be exempt from its own zoning regulations in regard to the construction of said water tank; and

**WHEREAS**, while municipalities are presumed to be subject to their own zoning regulations, courts have held that activities undertaken by municipalities within their geographic boundaries are subject to a “balancing of interests” test of nine (9) factors set forth in *County of Monroe v. City of Rochester*, 72 N.Y.2d 338 (1988):

1. The nature and scope of the instrumentality seeking immunity;
  2. The encroaching government’s legislative grant of authority;
  3. The kind of function or land use involved;
  4. The effect local land use regulation would have upon the enterprise concerned;
  5. Alternative locations for the facility in less restrictive zoning areas;
  6. The impact upon legitimate local interests;
  7. Alternative methods of providing the proposed improvement;
  8. The extent of the public interest to be served by the improvements; and
  9. Intergovernmental participation in the project development process and an opportunity to be heard.
- ; And

**WHEREAS**, the Town of Alexander has closely reviewed the above-mentioned factors and has made the following determination in regard to each factor:

1. The Town of Alexander is purchasing, on behalf of Genesee County Phase 2 Water Supply Project, .32 acres of property in the Town of Alexander along State Route 20. The site was chosen for its proximity to the main water line providing water to the area and in further areas within the county of Genesee. The site was chosen due to its elevation and its ability to provide storage for Water District 5, potentially Water District 6, and future water districts, within the County of Genesee.
2. The Town of Alexander was invested with the authority to adopt land use regulations. They were also compelled by creation of certain water districts by residents of the Town of Alexander to supply safe potable water throughout the Town. The two authorities converge with regards to the adoption of a zoning law, which requires certain size acreage, also, requiring certain setbacks. This particular facility, given the fact that it’s a quasi-public utility, requires less than the applicable acreage for a normal size building lot. It is not intended for any of this to be habitable space.
3. This is purely a public utility, the land herein will be used to house piping, a pump station, and a water tank for the purposes of providing safe potable water to Water District 5, potentially Water District 6 and future water districts, within the County of Genesee.
4. In the event the Town of Alexander were required to comply with its regulations, there would be a larger parcel eradicated from tax rolls, as well as creating a larger parcel that may possibly become unmaintained and with no specific purpose for water. This utility only requires a small footprint and would be unnecessary to site the tank on a larger parcel.
5. The alternative locations for this facility are not available as the zoning in the area is of similar and same nature. Additionally, the site was identified for its geographical location in both proximity to State Route 20 and its elevation.
6. There are no know negative impacts upon legitimate local interests. The residents have shown through petitioning and multiple public forums that they are very much in favor of the proposed siting of the water tank.
7. There is no feasible alternative method for providing the proposed improvement.
8. The community petitioned for this and at the public hearing it was delineated that this location was where the pump station and water tank would be constructed. At that time and since, no resident has spoken against it; in fact, people were in support of this proposition.
9. All residents have had multiple opportunities to be heard from the petitioning stage of the project to the numerous public hearings.

**NOW ON MOTION OF** Councilperson Haller which has been duly seconded by Councilperson Miller, now, therefore,

**BE IT RESOLVED**, the Town Board of the Town of Alexander, after close examination and review of the above-mentioned factors, does find it to be in the best interest of the Town to be exempt from its own zoning regulations in regard to the construction of said water tank.

Ayes: 5                      Nays: 0                      Quorum Present: Yes

**RES. NO. 62: TO ACCEPT BID FOR SURVEY OF ADDITIONAL FACILITIES WATER TANK**

**WHEREAS**, Kevin O’Donaghue has submitted a proposal to survey the Additional Facilities / WD 5 water tank site, and

**WHEREAS**, the fee of \$2,400.00 is bid, and

**THEREFORE BE IT RESOLVED**, the Town Board of the Town of Alexander accepts the proposal from Kevin O'Donaghue, surveyor.

Motion made by Supervisor Higley and seconded by Councilperson Wagner and carried.  
Ayes: 5            Nays: 0

**RES. NO. 63: TO SEND THE HIGHWAY DEPARTMENT TO DRAVES SAFE CHAIN SAW TRAINING**

**WHEREAS**, Draves Tree Service is providing a training class on chain saw safety, and  
**WHEREAS**, the Highway Department staff will benefit from said training, and  
**THEREFORE BE IT RESOLVED**, the Highway Department personnel are authorized to attend this safety training class at \$85.00 per person for a total of \$425.00.

Motion made by Supervisor Higley, seconded by Councilperson Wagner and carried.  
Ayes: 5            Nays: 0

**RES. NO. 64: BUDGET TRANSFERS**

**WHEREAS**, the A3510.4, Control of Dogs account has been over spent over budget by \$45.90, and  
**WHEREAS**, the Highway B DB9720.7 interest account is over by \$0.01, and  
**WHEREAS**, A1990.4 and DB9080.6 have sufficiently available funds, and  
**THEREFORE BE IT RESOLVED**, to decrease A1990.4 by \$46.00 and DB9060.6 by \$0.01 and increase A3510.4 by \$46.00 and DB9720.7 by \$0.01.

Motion made by Councilperson Miller and seconded by Councilperson Haller and adopted.  
AYES: 5            NOES: 0

**RES. NO. 65: REAPPOINTMENT OF BARB SPRING TO THE BOARD OF ASSESSMENT REVIEW**

On motion by Supervisor Higley, seconded by Councilperson Miller and carried, to reappoint Barb Spring to the Board of Assessment Review effective Oct 1, 2019 for a 5 year term.  
Ayes -5            Noes- 0    carried

**RES. NO. 66: APPOINTMENT OF MOLLY MEEK-GRIMES DEPUTY CHAIR FOR PLANNING BOARD**

On motion by Supervisory Higley, seconded by Councilperson Wolfley and carried, to appoint Molly Meek- Grimes as Deputy Chair to the Planning Board.  
Ayes-5            Noes- 0    carried

**RES. NO. 67: RENEW HIGHWAY STORAGE BUILDING BAN**

**WHEREAS**, the Bond Anticipation Note (B.A.N.) of \$105,000.00 for the new Highway Storage Building will expire in December, and  
**WHEREAS**, the B.A.N. is to be interim financing while waiting for grant funds from Senator Ranzenhofer which is still not available, and  
**THEREFORE BE IT RESOLVED**, the Supervisor is authorized to renew the Bond Anticipation Note.

Motion made by Councilperson Miller and seconded by Councilperson Wagner and carried.  
Ayes: 5            Nays: 0

**RES. NO. 68: APPROVE AUDIT PROPOSAL FOR TOWN CLERK FINANCIAL RECORDS**

On motion by Supervisor Higley seconded by Councilperson Wagner, and carried, to approve the proposal from Raymond F. Wager, CPA of (not exceeding) \$1450.00 to audit the financial records of the Town Clerk's office due to the former Clerk's resignation on July 9, 2019.  
Ayes – 5            Noes- 0    carried

**RES. NO. 69: BLIND DRIVEWAY SIGN ON DRYBRIDGE ROAD**

On motion by Councilperson Haller, seconded by Councilperson Miller, and carried, to approve the Towns Highway department to place a Blind Driveway sign on Dry Bridge Road near address 3984 Drybridge Road Alexander.  
Ayes- 5            Noes-0    carried

**DISCUSSION:**

1. Genesee County Resolution 316- County fund sharing.
2. Email from Senior Living Help- wanted to be added to our town website.
3. Permit event at Vintage Cow, needing letter from local municipality giving their okay.

4. Proposal for agreed upon procedures- Town clerk audit 1/2019-6/2019

On motion by Councilperson Miller, seconded by Councilperson Wagner, and carried, to pay the bills on Abstract 8 as follows:

General Fund A	Vouchers	228-251	\$26,600.68
General Fund B	Vouchers	20-21	\$395.03
Highway Fund A	Voucher	13-14	\$6148.82
Highway Fund B	Vouchers	118-131	\$34621.36

On motion by Councilperson Miller, seconded by Councilperson Wolfley, and carried, the meeting adjourned at 10:05 pm.

Respectfully submitted.

Shannon Tiede  
Town Clerk