

MAY 9, 2023 Town Board Meeting

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Schultzville, NY

The Clinton Town Board held the Regular Town Board meeting on this day in the Town Hall. Present were Deputy Supervisor Werner, Councilman Michael, Juliano and Councilwoman Mustello. Town Clerk Carol Mackin was absent. Arlene Campbell was Acting Clerk. Supervisor Mike Whitton was absent. There were approximately 5 people in the audience.

Deputy Supervisor Werner called the meeting to order at 6:47 PM and led the Pledge of Allegiance. Deputy Supervisor Werner apologized for the delay in opening the meeting due to a video technical issue.

### **APPROVE MINUTES**

MM Deputy Supervisor Werner, 2nd Councilman Juliano to approve the minutes of the April 11, 2023 Public hearing. All aye except Supervisor Whitton who was absent. Motion carried, 4-0.

MM Deputy Supervisor Werner, 2nd Councilman Michael to approve the minutes of the April 11, 2023 Town Board meeting. All aye except Supervisor Whitton who was absent. Motion carried, 4-0.

### **PUBLIC DISCUSSION: (Agenda Items only)**

None.

### **DEPUTY SUPERVISOR'S COMMENTS:**

Deputy Supervisor Werner read a message from Michael Whitton. Supervisor Whitton expects to run the next town board meeting in June. The Town Campus will be closed on Monday, May 29 in observance of the Memorial Day. Narcan Training will be offered at the Town Hall on Saturday, May 13<sup>th</sup> at 1:00 pm. For more info, please visit the town website. Clinton Rec., Clinton Library and the CAC have teamed up to offer programs to support Mental Health Awareness. A new phone system will be in effect on May 26 2023. TOC will only have one phone number, i.e., 845-266-5853 that will prompt you to connect to the department that you need to reach. Annual library book and plant sale will be held from May 18 to May 21, 2023. Camp registration is now open. Check the town website for more info. The annual statewide burn ban remains in effect until May 14. The town is moving ahead with the long-awaited painting of the Masonic Hall and expected to be completed by July 1 weather permitting. The contract with the builder for the library ramp was signed. Work should begin soon. Iworks system conversion in the building department and highway department is underway. There is no firm-go-live date yet but anticipating sometime in June. He, along with Mr. Bonanno, PB member and Don Estes, ECFD Fire Chief met with Upton Lake Christian School's principal regarding the speed zone reduction on Salt Point Turnpike. Councilman Michael commented that the school zone can be instituted since they are proposing to raise the number of students. They should qualify for the school speed zone. Deputy Werner said that he will look into this matter. He also gave an update about the candidates for a town planner. He gave his personal thanks to Carol Mackin, Town Clerk, Mary Molloy, Deputy TC and Cathy Gallinger, supervisor secretary for the outstanding job they have been doing in the absence of the town supervisor.

**TOWN BOARD REPORTS:** Posted on the web, townofclinton.com.

PLANNING BOARD, ZBA, CAC, CLIMATE SMART TASK FORCE, RECREATION, BUILDING INSPECTOR, ZONING ADMINISTRATOR, HIGHWAY, SCENIC AND HISTORIC ROADS, LIBRARY, ALTICE, ZONING REVISION, CEMETERIES, PROPOSED TRANSMISSION LINES, OTHER (QUARTERLY: WIC, SAFETY)

Katherine Mustello – see Highway reports. Clinton Climate Smart Communities Task Force will make a presentation at the Clinton Library on May 13 about climate change and how this relates to the Town.

Eliot Werner – summarized the report as submitted. He also gave an update which nothing on Cemetery and Scenic Roads committee.

Dean Michael –no report since no Zoning meeting

Chris Juliano – no report

Dan Harkenrider, Recreation Director gave the report, including:

- **Summer Camp Registration is open.** See the website for more info  
Dates:  
July 3-7 (no camp July 4) July 10-14 and  
August 7-11 and August 14-18
- **New programming:** kickball/volleyball July and August after Rhinebeck Volleyball (Wednesdays)
- **Basketball clinic in June,** 2nd – 5th graders, Wed nights in June, 6 – 7:30 PM \$50 per person. Each gets a basketball and T shirt.
- **Basketball league** set for Saturday mornings, adults, 6 teams charging by the hour. Dan will consider a 3X3 tournament.  
**Swimming is open May 27, 2023.**
- **July 14, 2023 – 1<sup>st</sup> music season**

Dean asked about increasing Fran Mark Park’s revenue, upgrading some of the stuff, at Fran Mark. Anything over there to potentially use over the other park, to make the pavilion more rentable. This park is always booked up, maybe they can offer reduced rate and offer Friends Park.  
Dan will look into it.

Chris asked about the \$30 fee for basketball pass, any feedback. Dan said that it goes on Venmo account, he hasn’t heard any feedback yet.

Chris asked when the Snack Shack is supposed to open. Dan said this will open up during the movie night.

Eliot indicated the new AED and fire distinguisher at the Rec Park.

**OLD BUSINESS**

None

**NEW BUSINESS**

**1. Approve Resolution to return unused escrow funds – Werner**

MM Deputy Supervisor Werner, 2nd Councilman Michael that the Town Board approves the following resolution: BE IT RESOLVED that the Town Board approves **Resolution No. 27 of 2023 returning unused escrow funds**. All aye except Supervisor Whitton who was absent. Motion carried.

**2. Approve Stipulated Settlement with Mendelsohn – Dean Michael**

MM Councilman Michael, 2nd Councilman Juliano that the Town Board approves the following resolution: BE IT RESOLVED that the Town Board approves **Resolution No. 28 of 2023** that the Town Board hereby authorizes the attorney for the Town of Clinton Shane J. Egan, Esq., to enter into a settlement agreement with the attorney for petitioner, Whiteman, Osterman & Hanna, LLP, Daniel Hubble, Esq., the terms of which are set forth in the attached Consent Judgment and hereby authorizes Shane J. Egan, Esq., to sign said Consent Judgment on behalf of the Town. In discussion, Dean explained why was it rigged, the cost of work during the COVID impacted the cost. It's also uncommon, this will fix the rate for the next two years, i.e. 2025. All aye except Supervisor Whitton who was absent. Motion carried.

**3. Approve Resolution to surplus kitchen appliances – Werner**

MM Deputy Supervisor Werner, 2nd Councilman Michael that the Town Board approves the following resolution: BE IT RESOLVED that the Town Board approves **Resolution No. 29 of 2023** authorizing the surplus of the kitchen appliances. Eliot explained We cannot make donations since we are government, but we can make sale of appliances. Discussion, Cathy said that the way she read it, they will put up for the sale. Chris said that some of them are 40 years old, he feels that scrapping will be better rather than putting up for sale, that is safety issue. Dean felt - leave it and if no bite, then scrap it. All aye except Supervisor Whitton who was absent. Motion carried.

**4. Approve Town participation in naming May Mental Health Awareness Month – Werner**

MM Deputy Supervisor Werner, 2nd Councilman Michael that the Town Board approves the following resolution: BE IT RESOLVED that the Town Board Proclaims May as Mental Health Awareness Month. All aye except Supervisor Whitton who was absent. Motion carried.

**5. Approve Deputy Supervisor's letter of support for Fallkill Watershed project – Werner**

MAY 9, 2023 Town Board Meeting

MM Deputy Supervisor Werner, 2nd Councilman Michael that the Town Board approves the following resolution: BE IT RESOLVED that the Town Board approves of Deputy Supervisor Werner sending a letter to the NYS DEC supporting the Fallkill Watershed project to improve community resiliency by combating damaging flood impacts. Discussion. Eliot said that Hyde park is asking letter of support, Katherine asked what exactly are they going to do about flood. Dean said when trees fall across the water, it starts backing up and starts flooding. Chris said that DEC has a guideline and they are not big in cutting those trees out. They creates the problem for the backup of the drainage. Kathy said that she feels that this is more of research, so --no actual work is done. All aye except Supervisor Whitton who was absent. Motion carried.

**6. Approve Ryan Mackin's unpaid leave of absence – Michael/ Mustello**

Highway Superintendent Todd Martin has granted Ryan Mackin a two month, unpaid leave of absence from his position as MEO, from June 1 to August 1.

MM Councilman Michael, 2nd Councilwoman Mustello that the Town Board approves the following resolution: BE IT RESOLVED that the Town Board approves Ryan Mackin's request for a two-month, unpaid leave of absence from the Highway Department beginning June 1, 2023 to July 31, 2023, returning to work on August 1, 2023 to his position as MEO at his current rate of pay. Dean explained that highway approved one of the employees for the unpaid leave. All aye except Supervisor Whitton who was absent. Motion carried.

**7. Approve Deputy Supervisor's letter supporting proposed legislation providing options for workers compensation coverage – Werner**

MM Deputy Supervisor Werner, 2nd Councilman Michael that the Town Board approves the following resolution: BE IT RESOLVED that the Town Board approve Deputy Supervisor Werner writing a letter to our State Legislators Barrett and Hinchey to support Bill S.6410 and A52A allowing for flexible options for workers' compensation coverage that best suit the Town's needs including the option of group self-insurance. All aye except Supervisor Whitton who was absent. Motion carried.

**8. Approve Contract with Toshiba for Copier lease and maintenance - Werner**

MM Deputy Supervisor Werner, 2nd Councilman Michael that the Town Board approves the following resolution: BE IT RESOLVED that the Town Board approve the annual contract with Toshiba Business Solutions and for a minimum monthly payment of \$246.23 and authorizes, empowers, and directs the Deputy Town Supervisor to sign the contract. All aye except Supervisor Whitton who was absent. Motion carried.

Eliot indicated the three printers that are under the lease.

**OTHER**

MAY 9, 2023 Town Board Meeting

Chris Juliano discussed the issue about highway and employee files. He agreed with the check and balance but noted that part of this is an ongoing issue. He had spoken with the town attorney, that HR should be employee records should be back to the supervisor office. He said that the town attorney is supportive of his opinion that these records should be returned to the Highway. They have the right to these files and anything to do with the highway employees. He indicated the case law and the regulation that it should be kept at the highway department. Personnel files such as disciplinary action should be kept at the highway office. W2, tax files are okay to be kept with the town supervisor.

MM Councilman Juliano, 2nd Councilman Michael that the Town Board approves the following resolution: BE IT RESOLVED that the Town Board approve returning the highway records back to the Highway Superintendent with the understanding there should be copies with the Supervisor's office.

**In discussion**, Chris Juliano said the Town Attorney agrees with this. Katherine Mustello said that she doesn't think that the town attorney said that. He's interpreting it differently. Chris responded that Shane is not definitive but supportive of his view. Eliot said that they should wait. He doesn't feel that they should change the policy because the town supervisor is not present. Chris said that he's comfortable now. Katherine Mustello said that what was discussed was that there should be equal copy in both departments. Chris said that the town attorney said that the original documents should be kept with the highway department. They never had issues before, there is no reason to make it streamline. It cost money to have the town supervisor secretary to do this. Eliot suggested Cathy Gallinger, Supervisor's Secretary speak. Katherine said that nothing is actually missing. She suggested highway should be able to speak too.

Cathy Gallinger explained that there is lots of information in the original files and sensitive info and it's not right to be addressing this issue when the town supervisor is not around. Cathy Gallinger indicated there should be no changes while the Supervisor is out of the office, the Supervisor put these policies in place and there should be no changes. Katherine Mustello asked about duplicate files. Eliot Werner said we should put this on hold until Michael returns and has an opportunity to speak to why his instituted this policy. Chris doesn't have the problem of having the copies at the highway. He mentioned about the previous administration started this process and Shane supports it 100%. Eliot said that no one says that no one can have copies, this can easily be resolved, Chris said that he wants to see everything squared away. The day to day operations do not stop.

Todd Martin, Highway Superintendent, echoed Chris sentiments. This is crazy. We're wasting time and town attorney's fees because of these files. He noted that he is merely asking his files back. Per the town attorney, the highway department can have his files back. He remarked that there are missing files. Todd said that these records were always kept in the highway office. He indicated his impression when they took these files, that these files were just getting scanned but noted that they never came back. Per the highway law and the association of town law, these files should stay with them.

Dean explained that he has this conversation with Michael Whitton going back before he went on leave. He doesn't have any problem of having both copies, he feels that the highway superintendent should have the original. He agreed with Chris that day to day operation should not stop.

MAY 9, 2023 Town Board Meeting

Eliot said that they are not stopping the day to day operation. It's just fair to wait for Mike W to return to address this issue.

Chris explained the scanning of all the town files for Laserfiche. The original intent was to scan stuff. He understands the HIPPA law, but noted about the email from the association of town attorney -- that these files should stay at the highway. Chris asked who else has access to records. Todd responded that he's the only one who has the access to it.

The panel had a lengthy discussion about the issue. Todd said that he doesn't care about the W2s, some office files should be kept to the Town Clerk's office. Dean suggested amending the motion. Chris feels that the original intent is to scan and give back the original to the highway department. He's fine with disciplinary action and day to day operation of employee.

Cathy G said that the current files are a lot of paperwork, she suggested waiting for Mike W. Dean asked Cathy G. what's the problem with highway having it? What's the difference if highway also has the copy? Cathy said that the original should stay in her office. She believes that they should wait for the town supervisor.

Chris said that highway is elected official and he needs access to this all the time, 24/7 in case of natural disaster, covid, etc. Todd needs all files too. Todd said that the only access he has right now are records of old employees, not the current employees. He doesn't have access to current employees. Just the Laserfiche for old employees. Chris said that this is a problem, Todd needs records of current employees in case he needs to cite disciplinary action. Kathy G suggested amending the resolution that copies should be in the town supervisor,

Chris said that it is clear that the original with Todd and copies with supervisor, what do we have to amend. He feels that the letter of law that the original should go to HR and he gets the copy to it. He feels that the original should stay with Todd. This is a legal document that he signed too. Chris said that this discussion has been going on since January. Eliot said he doesn't know anything about it. Todd said that legally, he doesn't have to give this up. This belongs to him. They didn't have to give this up. They need these files back.

Councilman Juliano motioned to amend the resolution made earlier to state that the maintenance and storage of the Highway Department's personnel original files be kept at the Highway Superintendent's office as per the Highway Law and Association of Town Law, seconded by Councilman Michael.

**TO WIT:**

**MM Councilman Juliano, 2nd Councilman Michael that the Town Board approves the following resolution: BE IT RESOLVED that the Town Board approve that the maintenance and storage of the Highway Department's personnel original files be kept at the Highway Superintendent's office as per the Highway Law and Association of Town Law with the understanding there should be copies with the Supervisor's office. Roll Call Vote: , Katherine Mustello: aye, Dean Michael: Aye, Chris Juliano: Aye, Eliot Werner, Nay. Michael Whitton, Absent. Motion carried.**

Katherine wants Chris to orchestrate the returns of the files.

Chris Juliano discussed payroll, based on his conversation with the town attorney, since we have a bookkeeper, there is precedence, that payroll report will be sent to the highway superintendent

MAY 9, 2023 Town Board Meeting

office, to keep that with the highway superintendent. Katherine said that the supervisor secretary is okay with it, this is not an issue. The record of payroll report can go back to highway.

Dean discussed the email that he sent about the employee's voucher. He noted that a voucher from the highway superintendent -- unless it was change by the highway superintendent, it is illegal to change the employee payroll by anyone else. The town ... we should not change it; it is illegal to change it. Eliot said that they never changed it. Todd said that it was changed. Eliot said that he never changed it. Eliot and Todd had heated exchange about the matter. Dean said that the law said that it cannot be changed.

Chris said that he can sit down to work this out. This need to be worked out, we are a team. To iron out all the issues. Dean fully supported; they need to sit down. The board agreed to discuss this matter tentatively May 30, TBD about the time.

## **OTHER ITEMS**

### **1. Resignations and appointments - Werner**

MM Deputy Supervisor Werner, 2nd Councilwoman Mustello that the Town Board approves the following resolution: BE IT RESOLVED that the Town Board approve **Resolution No. 30 of 2023 authorizing the appointment of summer Recreation employees.** All aye except Supervisor Whitton who was absent. Motion carried.

### **2. Approval of Warrants**

MM Councilman Michael, 2nd Chris Juliano to approve the following resolution BE IT RESOLVED that the Town Board approves the:

**May General Fund Warrant**, vouchers numbered **210 through 269 totaling \$ 52,888.55** and the

**May Highway Fund Warrant**, vouchers numbered **116 through 146 , totaling \$ 63,801.47** And the

**May Capital Fund Warrant**, vouchers **numbered 7 totaling \$ 800.00**

All aye except Supervisor Whitton who was absent. Motion carried.

### **3. Motion to Move Funds – Werner**

MM Deputy Supervisor Werner, 2nd Councilman Michael that the Town Board approves the following resolution: BE IT RESOLVED that the Town Board approve **Resolution No. 31 of 2023 a motion to move funds.** All aye except Supervisor Whitton who was absent. Motion carried.

### **4. Supervisor's Report**

MAY 9, 2023 Town Board Meeting

The April 2023 Supervisor's Report will be approved when the 2022 books are reconciled after the completion of the AUD.

**PUBLIC DISCUSSION**

MM Deputy Supervisor Werner, 2nd Councilman Michael to open the floor to public discussion All aye except Supervisor Whitton who was absent. Motion carried.

Todd Martin spoke and said that they received the grant, an official word from Didi Barrett. From low band to high band. If there are trees down, they can just call the town highway an everybody will be safe at home. Everybody will just be home and safe. They were using two-way radios. Eliot asked about the document type of the contract. It is a DocuSign. It will collect signatures from the Highway Superintendent, Town Supervisor and Town Attorney. It's a grant of \$125k.

MM Deputy Supervisor Werner, 2nd Councilman Michael to close the public discussion and return to the regular order of business. All aye except Supervisor Whitton who was absent. Motion carried.

**ADJOURNMENT**

MM Deputy Supervisor Werner, 2nd Councilman Juliano that the Town Board adjourns the meeting. All aye except Supervisor Whitton who was absent. Motion carried.

**The meeting was adjourned at 8:15 PM.**

Respectfully Submitted,

*Arlene Campbell*

Arlene Campbell  
Acting Clerk