

**TOWN OF SULLIVAN
TOWN BOARD MEETING
MARCH 16, 2022 AT 9:00 A.M.**

The Town Meeting of the Town Board of the Town of Sullivan was convened at 9:00 A.M. on March 16, 2022 by Deputy Supervisor Jeffrey Martin.

The meeting was held at the Town Office Building located at 7507 Lakeport Road. The meeting was also streamed live via YouTube and the link and passcode for the public to join the meeting were posted on the Town's website.

Present were: Deputy Supervisor Jeffrey Martin; Councilors David Montroy, John Brzuszkiewicz, and Daniel Gibbons; Comptroller Beth Ellis; Attorney for the Town John Langey; Highway Superintendent Andy Busa; Clerk for Highway Mary Cate Voss; Supervisor's Secretary Dawn Cottet, and Deputy Town Clerk Jill Doss.

Excused: Supervisor John Becker

Also present were: Bruce Burke of PAC99 and Chittenango School Board Member Dana Kent

Pledge to the flag was led by Deputy Supervisor Martin.

APPROVAL OF MARCH 2, 2022 MEETING MINUTES

A motion was duly made by Councilor Gibbons and seconded by Councilor Montroy to approve the minutes of March 2, 2022. With no further discussion the following vote was recorded to adopt the Town Board meeting minutes of March 2, 2022:

David Montroy	Councilor	Voted	Yes
Daniel Gibbons	Councilor	Voted	Yes
John E. Brzuszkiewicz	Councilor	Voted	Yes
Jeffrey Martin	Deputy Supervisor	Voted	Yes
John M. Becker	Supervisor	Excused	----

**PUBLIC HEARING FOR TOWN OF SULLIVAN LOCAL LAW NO. C-2022
("A LOCAL LAW AMENDING CHAPTER 186 ('NOTIFICATION OF DEFECTS')
OF THE TOWN OF SULLIVAN TOWN CODE")**

Attorney for the Town Langey briefly explained proposed Local Law No. C-2022 which was recommended by the Town's insurance carrier that provides for prior written notice of a defect with a Town facility; for example a Town road, highway, ditch or swale, or bridge. Claims could not be brought unless the Town were to be on notice to fix/repair/replace the defect. Upon the motion made by Councilor Gibbons, seconded by Councilor Brzuszkiewicz, the Town Board unanimously approved the public hearing being opened.

Deputy Supervisor Martin asked if anyone had questions or comments in regard to the proposed Local Law. There were no additional questions or comments. Upon the motion made by Councilor Brzuszkiewicz, seconded by Councilor Montroy the Town Board unanimously approved the closing of the public hearing for proposed Local Law No. C-2022. Thereafter, the following action was taken:

The following resolution was offered by Councilor Gibbons, who moved its adoption, seconded by Councilor Montroy, to wit:

WHEREAS, pursuant to the provisions of the Municipal Home Rule Law, proposed Local Law No. C-2022, "A Local Law Amending Chapter 186 ('Notification of Defects') Of The Town Of Sullivan Town Code," which would amend certain sections of the Notification of Defects provisions to include streets, sidewalks, crosswalks, ditches and swales, in addition to highways, bridges and culverts, was presented and introduced at a regular meeting of the Town Board of the Town of Sullivan held on February 16, 2022; and

WHEREAS, a public hearing was held on such proposed local law on March 16, 2022, by the Town Board of the Town of Sullivan and proof of publication of notice of such public hearing, as required by law, having been submitted and filed, and all persons desiring to be heard in connection with said proposed local law having been heard, and said proposed local law having been in the possession of the members of the Town Board of the Town of Sullivan in its final form in the manner required by Section 20 of the Municipal Home Rule Law of the State of New York; and

WHEREAS, Volume 6 N.Y.C.R.R., Section 617 of the Regulations relating to Article 8 of the New York State Environmental Conservation Law of New York (SEQRA), requires that as early as possible in the consideration of a proposed action, an involved agency shall make a determination whether a given action is subject to the aforementioned law; and

WHEREAS, on February 16, 2022, the Town Board declared itself lead agency and determined that the enactment of proposed Local Law No. C-2022 is an unlisted action and will have no significant effect on the environment, issuing a negative declaration, thus concluding environmental review under the State Environmental Quality Review Act; and

WHEREAS, it is in the public interest to enact said Proposed Local Law No. C-2022.

NOW, THEREFORE, it is

RESOLVED that the Town Board of the Town of Sullivan, Madison County, New York, does hereby enact Proposed Local Law No. C-2022 as Local Law No. 5-2022 as follows:

**"TOWN OF SULLIVAN
LOCAL LAW NO. 5 OF 2022
A LOCAL LAW AMENDING CHAPTER 186 ("NOTIFICATION OF DEFECTS")
OF THE TOWN OF SULLIVAN TOWN CODE**

Be it enacted by the Town Board of the Town of Sullivan as follows:

SECTION 1. AUTHORITY.

This Local Law is enacted pursuant to the New York State Constitution and New York Municipal Home Rule Law §10.

SECTION 2.

Chapter 186 ("Notification of Defects") of the Town of Sullivan Town Code is hereby amended by deleting the existing Section 186-1 ("Purpose") in its entirety and replacing the same with the following new Section 186-1 as follows:

§186-1 Purpose.

It is the purpose of this chapter to provide that prior written notice of a highway, bridge, street, sidewalk, crosswalk, culvert, ditch or swale defect is required to maintain a civil action against the Town of Sullivan or the Town of Sullivan Superintendent of Highways.

SECTION 3.

Chapter 186 (“Notification of Defects”) of the Town of Sullivan Town Code is hereby amended by deleting the existing Section 186-3 (“Prior written notice of highway defect required to maintain civil action”) in its entirety and replacing same with the following new Section 186-3 as follows:

§186-3 Prior written notice of highway defect required to maintain civil action.

No civil action shall be maintained against the Town of Sullivan or the Town of Sullivan Superintendent of Highways for damages or injuries to person or property sustained by reason of any highway, bridge, street, sidewalk, crosswalk, culvert, ditch or swale being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defective, unsafe, dangerous or obstructed condition of such highway, bridge, street, sidewalk, crosswalk, culvert, ditch or swale was actually given to the Town Clerk of the Town of Sullivan or the Town of Sullivan Superintendent of Highways, and that there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of. No civil action shall be maintained against the Town of Sullivan or the Town of Sullivan Superintendent of Highways for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge, street, sidewalk, crosswalk, culvert ditch or swale, unless written notice thereof, specifying the particular place, was actually given to the Town Clerk of the Town of Sullivan or the Town of Sullivan Superintendent of Highways and there was a failure or neglect to cause such snow or ice to be removed, or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

SECTION 4.

Chapter 186 (“Notification of Defects”) of the Town of Sullivan Town Code is hereby amended by deleting the existing Section 186-5 (“Record of notice”) in its entirety and replacing same with the following new Section 186-5 as follows:

§186-5 Record of notice.

The Town Clerk shall keep an indexed record, in a separate book, of all written notices which they shall receive of the existence of a defective, unsafe, dangerous or obstructed condition in or upon, or of an accumulation of ice or snow upon any Town highway, bridge, street, sidewalk, crosswalk, culvert, ditch or swale, which record shall state the date of receipt of the notice, the nature and location of the condition stated to exist, and the name and address of the person from whom the notice is received. All such written notices shall be indexed according to the location of the alleged defective, unsafe, dangerous or obstructed condition, or the location of accumulated snow or ice. The record of each notice shall be preserved for a period of five years after the date it is received.

SECTION 5. SEVERABILITY

If any clause, sentence, paragraph, section, article or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operations to the clause, sentence, paragraph, section, article, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 6. EFFECTIVE DATE

This Local Law shall take effect upon filing with the Secretary of State.”

The question of the adoption of the foregoing resolution was duly put to a vote and upon roll call, the vote was as follows:

David Montroy	Councilor	Voted	Yes
Daniel Gibbons	Councilor	Voted	Yes
John E. Brzuskiewicz	Councilor	Voted	Yes
Jeffrey Martin	Deputy Supervisor	Voted	Yes
John M. Becker	Supervisor	Excused	----

The foregoing resolution was thereupon declared duly adopted.

PUBLIC HEARING FOR TOWN OF SULLIVAN LOCAL LAW NO. D-2022
("A LOCAL LAW ADDING A NEW CHAPTER 207 ('SIDEWALKS')
TO THE TOWN OF SULLIVAN TOWN CODE")

Attorney for the Town Langey highlighted proposed Local Law D-2022 "Sidewalks" with the Town Board. Upon the motion made by Councilor Gibbons, seconded by Councilor Montroy the Town Board unanimously approved the opening of the public hearing for proposed Local Law D-2022. Deputy Supervisor Martin asked if anyone from the Board or public wished to speak for or against the proposed Local Law. No one spoke. Upon the motion made by Councilor Brzuskiewicz, seconded by Councilor Montroy, the Town Board unanimously approved closing the public hearing for proposed Local Law D-2022. Thereafter, the following action was taken:

The following resolution was offered by Councilor Montroy, who moved its adoption, seconded by Councilor Gibbons, to wit:

WHEREAS, pursuant to the provisions of the Municipal Home Rule Law, proposed Local Law No. D-2022, "A Local Law Adding A New Chapter 207 ('Sidewalks') To The Town Of Sullivan Town Code," which would add a Chapter requiring owners and occupants of lands fronting or adjoining public streets, sidewalks, roadways and highways to maintain, repair and keep safe sidewalks adjacent to their properties, was presented and introduced at a regular meeting of the Town Board of the Town of Sullivan held on February 16, 2022; and

WHEREAS, a public hearing was held on such proposed local law on March 16, 2022, by the Town Board of the Town of Sullivan and proof of publication of notice of such public hearing, as required by law, having been submitted and filed, and all persons desiring to be heard in connection with said proposed local law having been heard, and said proposed local law having been in the possession of the members of the Town Board of the Town of Sullivan in its final form in the manner required by Section 20 of the Municipal Home Rule Law of the State of New York; and

WHEREAS, Volume 6 N.Y.C.R.R., Section 617 of the Regulations relating to Article 8 of the New York State Environmental Conservation Law of New York (SEQRA), requires that as early as possible in the consideration of a proposed action, an involved agency shall make a determination whether a given action is subject to the aforementioned law; and

WHEREAS, on February 16, 2022, the Town Board declared itself lead agency and determined that the enactment of proposed Local Law No. D-2022 is an unlisted action and will have no significant effect on the environment, issuing a negative declaration, thus concluding environmental review under the State Environmental Quality Review Act; and

WHEREAS, it is in the public interest to enact said Proposed Local Law No. D-2022.

NOW, THEREFORE, it is

RESOLVED that the Town Board of the Town of Sullivan, Madison County, New York, does hereby enact Proposed Local Law No. D-2022 as Local Law No. 6-2022 as follows:

**“TOWN OF SULLIVAN
LOCAL LAW NO. 6 OF 2022
A LOCAL LAW ADDING A NEW CHAPTER 207 (“SIDEWALKS”)
TO THE TOWN OF SULLIVAN TOWN CODE**

Be it enacted by the Town Board of the Town of Sullivan as follows:

SECTION 1. **AUTHORITY.**

This Local Law is enacted pursuant to the New York State Constitution and New York Municipal Home Rule Law §10.

SECTION 2.

The Town of Sullivan Town Code is hereby amended by adding a new Chapter 207 (“Sidewalks”), as follows:

§207-1 **Legislative intent.**

It is the intention of the Town Board to protect the health and safety of the community by requiring the owners and occupants of lands fronting and adjoining public streets, sidewalks, roadways and highways to maintain, repair and keep safe sidewalks and curbing adjacent to their properties in a safe condition for the protection of pedestrians.

§207-2 **Definitions.**

For the purpose of this Chapter, the following words shall have the meanings indicated:

Sidewalk

The area between the edge of a roadway or highway pavement and the lot line of the abutting property, including but not limited to the curb, utility, brick, tree, direct or landscape areas.

§207-3 **Removal of snow and ice.**

A. It shall be the joint and several obligation of the owner, agent or occupant of any parcel of real estate upon which a sidewalk fronts or adjoins, whether the parcel of real estate is occupied by a structure or not, to keep such sidewalks free from snow and ice for the entire length of the sidewalk fronting or adjoining such parcel. For the purposes of this Chapter, such obligation exists regardless of whether the sidewalk is located on private property of the owner, agent or occupant, or within the road right-of-way.

B. Snow and ice shall be removed from the sidewalks within twelve (12) hours after the end of any snowfall, provided however that any snow or ice that has ceased to fall or form after 6:00 p.m. of any evening may be removed at any time before 9:00 a.m. the following day.

C. In the event that snow and/or ice on a sidewalk have become so hard that they cannot be removed without the likelihood of damage to the sidewalk, the owner, agent or occupant of the premises upon which a sidewalk fronts or adjoins shall cause sand, salt or other appropriate abrasive element to be put on the sidewalk to make travel thereon reasonably safe. As soon as the conditions allow, all snow and ice shall be immediately removed from the sidewalk.

D. No owner, agent or occupant shall cause any snow or ice to be swept, thrown or deposited onto a fire hydrant, any other parcel of real estate without the permission of the owner of that real estate, or into the road right-of-way between the sidewalk and the road or any street, highway or sidewalk.

E. Any owner, agent or occupant clearing snow and/or ice from a corner lot shall ensure that such snow and/or ice are not piled in a manner as to endanger pedestrians or obstruct the view of motorists.

F. Notwithstanding any other statute, ordinance, rule and/or regulation, any and all snow and/or ice plowed/removed from any highway right-of-way within the borders of the Town may be plowed/removed to any adjoining sidewalk, walkway, pathway and/or right-of-way of such highway right-of-way, which, for the purpose of such snow removal, shall be considered a snow shelf. Highway rights-of-way within the Town shall include any State, County and/or Town road, and there shall be no obligation of the Town, County or State to remove any snow and/or ice from said snow shelf once it is placed there.

§207-4 Maintenance, repair and replacement of sidewalks.

A. Duty to keep sidewalks clean. It shall be the joint and several obligation of any owner, agent or occupant of any parcel of real estate upon which a sidewalk fronts or adjoins, whether the parcel of real estate is occupied by a structure or not, to keep such sidewalks free from all leaves, dirt, filth and garbage, and to keep the sidewalk in good repair and condition for safe public use for the entire length of the sidewalk fronting or adjoining such parcel.

B. Obstructions. No property owner, agent, occupant or other person shall place or cause to be placed upon any sidewalk an obstruction of any kind as would interfere with the safe use of the sidewalks, except for temporary loading or unloading provided that such loading or unloading is completed without delay.

C. Compliance of privately owned streets required. All sidewalks constructed along privately owned streets of any development shall be subject to this Chapter and shall comply in all respects herewith. Failure to comply with this Chapter in any respect shall constitute sufficient cause for the Town to reject the proposed dedication of any street.

§207-5 Notice of violation of this Chapter.

A. Upon becoming aware that any property owner, agent or occupant is in violation of this Chapter, written notice of such violation shall be served by the Town Superintendent of Highways, Town Codes Enforcement Officer or any other law enforcement officer, or by their authorized agent. Such notice shall be served on such property owner, agent or occupant (a) personally or (b) by leaving the same at the subject property with a person of suitable age and discretion or visibly affixing it to the entrance of the property and thereafter mailing it to the owner of the property at their last known mailing address as listed on the tax records for the property. This notice shall describe the violation and set a time limit for the remedy of the violation.

B. In the event that notice of the violation is served with regard to the removal of snow, ice, debris or other obstruction and the violation is not remedied within the time limit set forth in the notice, the Town is hereby authorized to remedy the violation.

C. In the event that notice of the violation is served with regard to the construction, maintenance, repair, repaving or reconstruction of a sidewalk and the violation is not remedied within the time limit set forth in the notice, the Town shall issue an order directing repair of such violation.

D. Any work performed by the Town in accordance with this Chapter shall be reimbursed to the Town by the owner of the property upon which said sidewalk fronts or adjoins. The Town shall notify the Town Clerk of the expenses incurred for the labor,

equipment and materials used. The Town Clerk shall prepare a bill for the owner including these costs, as well as any other fee incurred by the Town including but not limited to reasonable engineering and attorneys' fees. The Town Clerk shall bill the owner, with such bill to be paid within thirty (30) days of the date of the bill. Failure of such owner to pay the bill within that period shall result in the assessment of the total amount of the bill, including any and all fees and expenses, against the real property to be collected as part of the annual tax levy. Upon written request to the Town Codes Enforcement Officer within ten (10) days of receipt of the bill, the owner of the property may request a hearing before the Town Codes Enforcement Officer to appeal all or any part of the charges imposed.

§207-6 Liability.

A. Notwithstanding any provision of law, the owner of real property upon which a sidewalk fronts or adjoins, and any agent or occupant to whom the owner has delegated responsibility for sidewalk maintenance, repair and snow removal, shall be liable for any injury to property or personal injury, including death, proximately caused by the failure of such owner, occupant or agent to maintain such sidewalk in a reasonably safe condition. Notwithstanding any other provision of law, the Town shall not be liable for any injury to property or personal injury, including death, proximately caused by the failure of such owner agent or occupant to maintain such sidewalk in a reasonably safe condition. Failure to maintain such sidewalk in a reasonably safe condition shall include, but not be limited to, the negligent failure to install, construct, reconstruct, repave, repair or replace defective sidewalks and the negligent failure to remove snow, ice, dirt or other material from the sidewalk.

B. Nothing in this section shall in any way affect the provisions of any other law or rule governing the manner in which an action or proceeding against the Town is commenced, including any provisions requiring prior notice to the Town of defective conditions.

§207-7 Penalties for violations of this Chapter.

Any and every violation of the provisions of this Chapter shall be deemed an offense punishable by a fine not exceeding one hundred dollars (\$100) for each offense. Each day's continued violation of this Chapter, after written notice thereof, shall constitute a separate and additional violation. In addition to the above-provided penalty or in lieu thereof, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this Chapter.

SECTION 3. SEVERABILITY

If any clause, sentence, paragraph, section, article or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operations to the clause, sentence, paragraph, section, article, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 4. EFFECTIVE DATE

This Local Law shall take effect upon filing with the Secretary of State.”

Councilor Brzuszkiewicz commented that the Town doesn't have that many sidewalks; there are some in the Bridgeport area along the Route 31 area. His other concern was with the word "repair" in the language. He believes that taxpayers wouldn't approve of taking on the responsibility of the cost for repairs to sidewalks located on their property. Attorney for the Town Langey explained that this Local Law language would only apply to publicly owned sidewalks. Councilor Brzuszkiewicz doesn't understand why we need this Law. The sidewalks on Route 31 would be the responsibility for repair or replacement

of the State DOT. The Town would have to do enforcement; who would be responsible in the Town for that enforcement, the Codes Office or Town Highway? Comptroller Ellis commented that this language was being suggested by the Town's insurance company to all of their clients/customers for liability management purposes. The Town Board discussed having a law in place for future developments. The Board commented that developers, in the future, would need to be made aware of this legislation and the responsibility for repair/replacement would need to be explained to them if they were proposing sidewalks.

The question of the adoption of the foregoing resolution was duly put to a vote and upon roll call, the vote was as follows:

David Montroy	Councilor	Voted	Yes
Daniel Gibbons	Councilor	Voted	Yes
John E. Brzuszkiewicz	Councilor	Voted	No
Jeffrey Martin	Deputy Supervisor	Voted	Yes
John M. Becker	Supervisor	Excused	-----

The foregoing resolution was thereupon declared duly adopted.

BUDGET MODIFICATION

Deputy Supervisor Martin advised that a budget modification is requested to transfer \$21,658.00 from A1990.4 Contingent to A8030.4600 Engineering for Sleepy Hollow Water fees. Comptroller Ellis explained that the fees for Sleepy Hollow were not on this years' tax bills but will be next year and at that time the fees would be re-couped.

Upon the motion made by Councilor Brzuszkiewicz, seconded by Councilor Montroy, the Town Board unanimously approved the budget modification as outlined in detail above.

FIREFIGHTER APPLICATIONS

Deputy Supervisor Martin reported that two applications have been received for firefighters from Fire Chef Baker of the Chittenango Volunteer Fire Department, Inc. The two firefighters are Austin J. Allen of 613 Charles Street, Chittenango and Landon J. Martin of 607 Forbes Avenue, Chittenango. The Town Board reviewed the applications. Upon the motion made by Councilor Gibbons and seconded by Councilor Brzuszkiewicz the Town Board unanimously approved, Austin J. Allen as a firefighter and Landon J. Martin as a firefighter with restrictions due to his age (as he is a High School student) with the Chittenango Volunteer Fire Department, Inc.

FUEL TANK REPLACEMENT AT TOWN HIGHWAY GARAGE - AUTHORIZING A BID OPENING FOR WORK RELATED TO THE INSTALLATION OF THE NEW FUEL TANK

Highway Superintendent Busa reported that the new replacement fuel tank for the Highway Department will be delivered this Friday. The amount due for the tank is \$92,600.00. Highway Superintendent Busa reported there is site work and preparation that needs to be completed for the installation of the new fuel tank. He has contacted LiftSafe/FuelSafe Inc in Syracuse to discuss the work that is needed to complete the installation. They have given a quote of \$135,000.00 to complete and they could start as early as April 2022. They would be willing to reduce the price if the Town Highway staff is able to do some of the quoted work. Highway Superintendent Busa asked how do we move forward and how will this be paid for? The funds for the installation were not budgeted but there is money in the Highway equipment line which is planned for Gradall purchase. There is also the possible sale of a used highway truck to the Town of Verona.

More discussion on the funding will need to take place to determine payment options. Comptroller Ellis, Supervisor Becker and Highway Superintendent Busa will meet to discuss the financial aspect of this project. Highway Superintendent Busa asked if the Town needs to go out for bid for this work or if this is considered an emergency due to the fact that the Town has been non-compliant with the DEC for the existing fuel tank. Attorney for the Town Langey advised that the Town Board can authorize a bid for the fuel tank project and a bid date can be determined at a later date to follow the Town purchasing policy. Highway Superintendent Busa can put together specifications for the Project. Upon the motion made by Councilor Montroy and seconded by Councilor Gibbons, the Town Board unanimously approves the authorization of scheduling a bid opening for work related to the installation of the new fuel tank at the Town Highway Garage. Highway Superintendent Busa will work on preparation of the specifications for this project and a bid date will be established at a later date.

Councilor Gibbons introduced the new Chittenango School Board member Dana Kent to the Town Board.

EXECUTIVE SESSION

Upon the motion made by Councilor Gibbons, seconded by Councilor Montroy, the Town Board unanimously approved entering into Executive Session for discussion of a particular employee in their employment with the Town. The Deputy Supervisor advised that no action would take place after the Executive Session.

ADJOURNMENT

With no further business and upon a motion made by Councilor Gibbons, seconded by Councilor Brzuszkiewicz and unanimously passed by the Board, the meeting was adjourned at 10:05 a.m.

Respectfully submitted,

Jill A. Doss
Deputy Town Clerk