

**TOWN OF SULLIVAN
TOWN BOARD MEETING
OCTOBER 6, 2021 AT 6:00 P.M.**

A regular meeting of the Town Board of the Town of Sullivan was convened at 6:00 p.m. on October 6, 2021 by Supervisor John Becker.

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. The meeting began in the parking lot at the Town Hall due to 50 + residents present for a public hearing. At the conclusion of the hearing, the meeting was moved inside to the Board Room.

Present were: Supervisor John Becker; Councilors Jeff Martin, Kerry Ranger, Tom Kopp and John Brzuszkiewicz; Comptroller Beth Ellis; Receiver of Taxes Katy Vanderwerken; Attorney for the Town John Langey; Highway Superintendent Andy Busa; Zoning Board Chairman Steven Durfee; Planning Board Chairman Frank Park; and Deputy Town Clerk Jill Doss.

Also present were: Bruce Burke of PAC99; David Montroy; Attorney James Roman; Kenneth and Cheryl Katzenstein; Scott Milnamow; Gordon Stansbury; Todd Bradbury; Carol Lewis; Tonya Louse; Linda Lamb; Laura Roman; several residents from White Bridge Road, Bargeview Drive, McGraw Road, and Bolivar Road.

Pledge to the flag was led by Supervisor Becker.

APPROVAL OF SEPTEMBER 15, 2021 MEETING MINUTES

A motion was duly made by Councilor Martin and seconded by Councilor Kopp to approve the minutes of September 15, 2021.

With no further discussion, the following vote was recorded to adopt the Town Board meeting minutes of September 15, 2021.

Thomas J. Kopp Jr.	Councilor	Voted	Yes
Jeffrey Martin	Councilor	Voted	Yes
Kerry Ranger	Councilor	Voted	Yes
John Brzuszkiewicz	Councilor	Voted	Yes
John M. Becker	Supervisor	Voted	Yes

**PUBLIC HEARING -PROPOSED LOCAL LAW NO. C-2021
CREATING THE BOLIVAR ROAD MINING PLANNED DEVELOPMENT DISTRICT**

Attorney for the Town John Langey explained the reason for this evening's public hearing. A request was received from Cheryl and Kenneth Katzenstein to create a Planned Development District ("PDD") for property they own on Bolivar Road. The PDD process requires a recommendation from the Town Planning Board and also will require an environmental review (SEQR); which is currently underway but not completed at this time. The Town Planning Board currently is reviewing the request and has not completed their review and recommendation process. The hearing is a request to modify the zoning of the Katzenstein lands on Bolivar Road to a PDD.

Upon a motion made by Councilor Martin, seconded by Councilor Brzuszkiewicz, the public hearing for Proposed Local Law No. C-2021 was opened at 6:05 p.m. unanimously passed by the Board.

Kenneth Katzenstein commented that a portion of his property on Bolivar Road is an existing gravel bed which has been mined over the years for gravel which has been used in various projects throughout the Town. There is currently a NYSDEC permit in his name that has been in place for approximately 35 years and according to Mr. Katzenstein

grandfathers the mining/quarry operation. He spoke of his creation of the White Bridge Road residential development and the parcels of land he still owns adjacent to White Bridge Road, the CSX Railroad and farm fields and a portion of an old dump site as well. The PDD would include creation of a 400' wide buffer area between the properties in White Bridge area and any potential future mining. There is no mining proposed for property he owns on the east side of Bolivar Road. He commented that he would be willing to walk the site this Saturday morning with anyone that would like to better understand the proposed plan and the lands involved. He advised that he is planning to sell his property and will be moving out of State. His thought was to protect the properties in Whitebridge by creating a buffer between the proposed use and the existing residential area. Attorney for the Town Langey advised that there will be no decision this evening. Tonight, the Board will be listening to comments and concerns of residents. Attorney for the Town Langey reiterated that the Town Board is waiting for the Town Planning Board's recommendation on the proposal to create a PDD.

Jim Roman a resident on Bolivar Road spoke in opposition of the proposed creation of the PDD for the Katzenstein property. According to Town Code 275 created in 2013 the establishment of a quarry can only happen in an Industrial zoned area. The property in question is not Industrial zoned. There is concern for property values which roughly stand at \$5m and the preservation of the land. He commented that this type of operation would require a NYSDEC permit. He inquired why create a PDD zone, this would appear to be spot zoning? Who came up with this plan? Why not apply for a use variance? He left a petition signed by 49 residents of the White Bridge area against the requested creation of a PDD. He strongly encouraged that the Town Board fight for the residents in preservation of their property and property value and vote this proposal down.

Scott Milnamow, 1487 White Bridge Road, has lived in the area for fourteen years. This proposed plan would put the quarry about 1,000 feet from his property. He commented that he had received no notification of this proposal. He commented that the approximate property value for the 50 houses in the White Bridge development was \$10m. He is concerned about possible property values decreasing. It was his opinion that if the Town were to approve this District it could cause a loss of tax revenue with the possible depreciation of property values. He urged the Town Board to vote "no" on creating a PDD.

Gordon Stansbury, 1396 White Bridge Road, said the 400' proposed buffer is less than the 500' buffer required in the Code. He is against the proposed zone change to a PDD. He is concerned for water quality, impact on the aquifer, possible changes to natural waterways, wildlife and natural habitats which frequent the Chittenango Creek and the adjacent 40 acre swamp area, increased truck traffic on Bolivar Road, concern for the damage from the weight and heavy trucks on the road -noise, safety issues with walkers and bike riders in the area. He urged the Town Board to vote no on the proposed request.

A question was asked about the NYSDEC permit that Mr. Katzenstein referred to. Mr. Katzenstein stated he does have a NYSDEC permit for the existing quarry that has existed for 35 years and is grandfathered. Mr. Katzenstein noted that his thought was to limit the size of the quarry with the creation of the PDD for the future. He stated that his desire was to provide a buffer and protect the adjoining neighborhood. The mine was in place before the houses were built in White Bridge. The mine is very small currently. The NYSDEC permit has been in place since 1988.

Jim Roman asked if the Town has seen the NYSDEC permit that Mr. Katzenstein holds. Attorney for the Town Langey commented he did see the permit quite awhile ago. Attorney for the Town Langey commented that the Board will not be making a decision this evening. Attorney for the Town Langey further commented that the NYSDEC has primary jurisdiction on any mining permits.

Todd Bradbury, 1331 White Bridge Road, asked if the PDD is denied, could the permit be used to expand the mining area by a future owner? Any expansion by a future owner would require additional approvals before a revised permit is issued from the NYSDEC.

Karolyn Lewis, 1319 Bargeview Drive, spoke of her concern for property values, love of wildlife, water, and proximity of the Canal to the project. She doesn't want to see damage to their area.

Tanya Loucks, 1343 Bargeview Drive, asked how much can be mined each year. Mr. Katzenstein replied that the DEC sets those limits in the approved permit. If there are changes in that approved permit, various Boards' where the mine is located are notified by the DEC.

The question was asked when will the decision be made on the requested PDD creation. Attorney for the Town Langey commented that this was unknown at this time. The Town Board still has to receive a recommendation from the Town Planning Board.

Linda Lamb, 7309 Bolivar Road, asked when the old landfill was closed. Highway Superintendent Busa commented that the NYSDEC installed six (6) test wells at the old site this year and they have reported that the water is clear.

The public hearing will remain open.

CANNABIS OPT OUT LEGISLATION

Supervisor Becker advised that the Town Board will be discussing later this evening the proposed cannabis legislation on whether the Town of Sullivan should "opt in" or "opt out" as a municipality. Attorney for the Town Langey briefly explained the steps to this process and what "opting in" and "opting out" meant for the Town. By a show of hands the group favored the "opting out" option. There were six residents who responded favorably to opting in, mainly for the potential sales tax benefit.

Supervisor Becker advised the group that the Town Budget for 2022 currently has a zero percent (0%) tax increase.

At this time the meeting was moved inside to the Board Room.

HAMILTON BROWN/BUSHNELL SHORE WATER PROJECT BID OPENING RESULT/DISCUSSION

Supervisor Becker advised that the bid opening for Hamilton Brown/Bushnell Shore Water Project took place October 1, 2021. Seven bidders submitted bids for the project:

WD Malone – Hannibal, NY	\$ 775,500.00
F P Kane Construction -Vestal, NY	\$1,134,000.00
Highlander Construction-Memphis, NY	\$ 731,000.00
Jablonski Excavating-Dodgeville, NY	\$1,247,500.00
R.B. Robinson Contracting-Landor, NY	\$ 887,860.00
Marcellus Construction – Adams, NY	\$ 890,279.00
Grant Street Construction – Cortland, NY	\$ 963,000.00

Supervisor Becker reported that Highlander Construction is the apparent low bidder for the Project at \$731,000.00. What has been budgeted for the Project is \$650,000.00. Attorney for the Town Langey reported that with this bid amount the Project total will exceed the maximum approved by the State Comptroller. There may be monies available to apply to the Project to ensure that there will be no increased cost to the residents in the Hamilton Brown/Bushnell Shores area due to this increase in construction cost. Attorney for the Town Langey commented that he has been in contact with the State Comptroller's Office about the recent bid and the need to raise the required maximum approved amount for the project. Information has been given to the Town's Bond Counsel for their opinion as well. The Town Comptroller is reviewing the Town funds for possible options to make up the difference between what was budgeted and the bid amount.

Attorney for the Town Langey advised that this needs to be on the October 20, 2021 agenda to review the revised NYS Comptroller's requirement and the opinion of the Town's Bond Counsel. A public hearing will be announced on October 20, 2021 and a public hearing held on November 3, 2021. This will fulfill matters from a public policy standpoint according to Attorney for the Town Langey.

Mr. Tessier asked if obtaining the approval from the State Comptroller is a formality and will there be increased cost to the residents in the area. The project will not be more burdensome to the residents; their cost will remain the same. The Comptroller's review is required because of the higher bid price.

INTRODUCTION OF PROPOSED LOCAL LAW NO. D-2021
(A Local Law Pursuant to Cannabis Law §131 Opting Out of
Licensing and Establishing Retail Cannabis Dispensaries and
On-Site Consumption Establishments Within the Town of Sullivan)

Councilor Brzuszkiewicz introduced proposed Local Law No. D-2021 regarding the opting out of licensing and establishing retail cannabis dispensaries and on-site consumption establishments within the Town of Sullivan and made the following Resolution, which was seconded by Councilor Ranger:

WHEREAS, proposed Local Law No. D-2021 has been introduced and will be considered for enactment pursuant to the provisions of the Municipal Home Rule Law; 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, requires that as early as possible after submission of a completed application, an involved agency shall make a determination whether a given action is subject to the aforementioned law; and

WHEREAS, no other agency has the legal authority or jurisdiction to approve or directly undertake the enactment of a local law in the Town of Sullivan, such that there are no other involved agencies within the meaning of the New York State Environmental Quality Review Act ("SEQR") with respect to the proposed enactment of said proposed Local Law, with the result that the Town Board shall act as lead agency in this matter; and

WHEREAS, the adoption of said Local Law is an unlisted action for purposes of environmental review under SEQR; and

WHEREAS, the Town Board has determined that a Short Environmental Assessment Form (EAF) shall be required in connection with this matter; and

WHEREAS, the said EAF has been prepared and has been reviewed by the Town Board; and

WHEREAS, the Town Board has considered the adoption of said Local Law, has considered the criteria contained in 6 N.Y.C.R.R. Part 617.7 and has compared the impacts which may be reasonably expected to result from the adoption of said Local Law against said criteria; and

WHEREAS, the enactment of said proposed Local Law No. D-2021 is subject to a permissive referendum pursuant to Municipal Home Rule Law §24 as set forth in Cannabis Law §131.

NOW, THEREFORE,

BE IT RESOLVED AND DETERMINED, that the enactment of this proposed local law is an unlisted action under SEQR, that there are no other involved agencies and the Town Board shall act as lead agency; and it is further

RESOLVED AND DETERMINED, that the Town Board has determined that this action shall have no significant adverse impact on the environment; that, accordingly, an environmental impact statement (EIS) shall not be required; and that this resolution shall constitute a negative declaration under SEQR; and it is further

RESOLVED AND DETERMINED, that the Town Board shall conduct a public hearing as to the enactment of proposed Local Law No. D-2021 at the Town Hall located at 7507 Lakeport Road, Chittenango, New York on November 3, 2021, at 6:00 p.m., or as soon thereafter as the matter can be heard, at which time all persons interested in the subject shall be heard, at which time all persons interested in the subject shall be heard; and it is further

RESOLVED AND DETERMINED, that notice of said public hearing shall be provided at least five (5) days prior to the date of said public hearing in a newspaper of general circulation within the Town of Sullivan and to any affected municipalities described above.

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

John E. Brzuszkiewicz	Councilor	Voted	Yes
Thomas J. Kopp Jr.	Councilor	Voted	Yes
Kerry Ranger	Councilor	Voted	Yes
Jeffrey Martin	Councilor	Voted	Yes
John M. Becker	Supervisor	Voted	Yes

The foregoing resolution was thereupon declared duly adopted.

DALE AND JEAN STEVENS - 8439 BLACK CREEK ROAD
REVOCABLE PERMIT/LICENSE AGREEMENT RENEWAL (2021)

Supervisor Becker reported that a request has been received from Dale and Jean Stevens for renewal of the temporary permit for placement of a single-wide trailer at 8429 Black Creek Road to allow the Stevens' mother to reside therein. A motion was duly made by Councilor Martin, seconded by Councilor Brzuszkiewicz and unanimously passed by the Board to approve the renewal of the Revocable Permit/License Agreement for a trailer owned by Dale and Jean Stevens at 8429 Black Creek Road for an additional one (1) year period, subject to the original conditions in the Revocable Permit/License Agreement granted on October 21, 2013.

With no further discussion, a roll call vote was taken to approve the one-year renewal as follows:

John E. Brzuszkiewicz	Councilor	Voted	Yes
Thomas J. Kopp Jr.	Councilor	Voted	Yes
Kerry Ranger	Councilor	Voted	Yes
Jeffrey Martin	Councilor	Voted	Yes
John M. Becker	Supervisor	Voted	Yes

AUTHORIZING THE SALE OF SURPLUS EQUIPMENT
TO THE TOWN OF FENNER

A motion was duly made by Councilor Martin, seconded by Councilor Ranger, and unanimously passed by the Board, to wit:

WHEREAS, the Town of Sullivan Highway Department owns a 1995 Blaw-Knox Paver PF-172 B (Serial No. 17218-19) and a 2002 Gradall XL4100 (VIN 0412545) (hereinafter the "equipment"); and

WHEREAS, said equipment has been deemed to be excess and surplus equipment and are not needed by the Town of Sullivan Highway Department; and

WHEREAS, the Town inquired as to the potential sale of the equipment through various avenues and means; and

WHEREAS, the Town of Fenner has offered to purchase said equipment from the Town of Sullivan Highway Department for Fifteen Thousand and 00/100 Dollars (\$15,000.00); and

WHEREAS, an analysis of the value of the equipment was undertaken by the Town of Sullivan Highway Department; and

WHEREAS, the Town Board having determined that this manner of sale is likely to facilitate the best price for the equipment.

NOW, THEREFORE, IT IS RESOLVED AND DETERMINED that, pursuant to Section 142(5) of the New York State Highway Law, the Town of Sullivan Town Board authorizes the Town of Sullivan Highway Superintendent to sell the aforementioned 1995 Blaw-Knox Paver PF-172 B (Serial No. 17218-19) and a 2002 Gradall XL4100 (VIN 0412545) to the Town of Fenner, "as is", without any warranties, express or implied, for a purchase price of Fifteen Thousand and 00/100 Dollars (\$15,000.00); and it is further

RESOLVED AND DETERMINED that the Town of Sullivan Highway Superintendent is hereby authorized to sign any documentation and take all actions to give full force and effect to this resolution; and it is further

RESOLVED AND DETERMINED that the proceeds of said sale shall be deposited into the appropriate Town of Sullivan Highway Fund, as required pursuant to Section 142(5) of the New York State Highway Law.

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

John E. Brzuszkiewicz	Councilor	Voted	Yes
Thomas J. Kopp Jr.	Councilor	Voted	Yes
Kerry Ranger	Councilor	Voted	Yes
Jeffrey Martin	Councilor	Voted	Yes
John M. Becker	Supervisor	Voted	Yes

The foregoing resolution was thereupon declared duly adopted.

**ADVERTISE HIGHWAY DEPARTMENT USED GRADALL
FOR SALE AT AUCTIONS INTERNATIONAL**

Supervisor Becker advised that the Town will be selling the used Gradall from the Highway Department through Auctions International site. Upon a motion made by Councilor Martin, seconded by Councilor Kopp, the Town Board authorizing advertisement of the sale of the used, sold as is Gradall through Auctions International. Such motion was unanimously passed by the Board.

BUDGET MODIFICATIONS

Transfer \$50,000.00 from A599 Appropriated Fund Balance to A9901.9 Transfers Out to Other Funds. These Funds are from the General Fund to the Highway Department for paving the Highway Garage parking lot (which was not known at budget time).

Transferring \$50,000.00 from DB5031 Transfers In from Other Funds, to DB5112.2 CHIPS Improvements. This is to receive the funds from General Fund into the Highway Fund, for paving over the budgeted 2021 amount.

Transferring \$2,000.00 from A1110.2 Justice Equipment to A1110.1115 Justice Part-Time Clerks. This is the request of the Town Court Justice to hire a part-time clerk.

Transferring \$5,000.00 from Contingent Account A1990.4 to A1315.406 Consulting Fees to pay The Bonadio Group for assistance with ARPA funds.

Upon a motion made by Councilor Martin, seconded by Councilor Brzuszkiewicz, the Town Board authorized the Budget Modifications as outlined above. With no further discussion, a roll call vote was taken as follows:

John E. Brzuszkiewicz	Councilor	Voted	Yes
Thomas J. Kopp Jr.	Councilor	Voted	Yes
Kerry Ranger	Councilor	Voted	Yes
Jeffrey Martin	Councilor	Voted	Yes
John M. Becker	Supervisor	Voted	Yes

MADISON COUNTY SOIL & WATER -- CREEK MAINTENANCE AGREEMENT

Supervisor Becker advised that the correct amount for the Creek Maintenance Agreement should be \$2,500.00 and not the \$10,000.00 that was discussed during budget preparation. Upon a motion made by Councilor Brzuszkiewicz, seconded by Councilor Kopp, the correct amount for the Creek Maintenance Agreement to be reflected in the proposed Town Budget for 2022 should be \$2,500.00. The Town Board unanimously agreed on this correction.

CERTIFICATION OF ADDITIONAL AND AMENDED LOCAL HIGHWAY INVENTORY, OWNERSHIP, RESPONSIBILITY AND ACTIVE USE OF CERTAIN PUBLIC ROADS IN THE TOWN OF SULLIVAN

A motion was duly made by Councilor Martin, seconded by Councilor Kopp, and unanimously passed by the Board, to wit:

WHEREAS, as part of its statewide GIS Public Road Network Project, the New York State Department of Transportation has prepared various reports of local Town highway inventories; and

WHEREAS, the Town of Sullivan Town Board had previously been notified that certain Town highways and roads have been identified by the New York State Department of Transportation, for purposes of verification of the ownership, responsibility and active use of said roads and highways as public roads in the Town of Sullivan; and

WHEREAS, the Town of Sullivan previously has conferred with the Town of Sullivan Highway Superintendent and has reviewed Town records as to the Town's updated ownership, responsibility for maintenance and repairs and use of said roads and highways; and

WHEREAS, the Town Highway Superintendent has advised of additional areas of Town highways and roads having been identified, such that it would be appropriate to include these additional and amended areas as set forth on the attached Schedule "A" and Schedule "B".

NOW, THEREFORE, BE IT RESOLVED that the Town of Sullivan Town Board hereby certifies that the additional and amended areas and lengths of roads and highways identified in the attached schedules of highways and roads (Schedules "A" and "B") are

owned by the Town of Sullivan and do constitute actively used public roads and highways of the Town of Sullivan, are public roads of the Town for all highway purposes and the Town accepts continued responsibility for their maintenance and repair.

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

John E. Brzuszkiewicz	Councilor	Voted	Yes
Thomas J. Kopp Jr.	Councilor	Voted	Yes
Kerry Ranger	Councilor	Voted	Yes
Jeffrey Martin	Councilor	Voted	Yes
John M. Becker	Supervisor	Voted	Yes

The foregoing resolution was thereupon declared duly adopted.

SCHEDULE "A"

**Schedule of Town Highways and Roads
 Additional Areas**

LENGTH	NAME	BEGIN DESC.	END DESC.
0.22	GIDRAN DRIVE	WHEATFIELD DRIVE	DEAD END
0.03	HARBOR TOWN DRIVE	HITCHCOCK POINT	
0.31	HARBOR TOWN DRIVE		WILLEY ROAD
0.05	HARBOR TOWN DRIVE	WILLEY ROAD	DEAD END

SCHEDULE "B"

**Schedule of Town Highways and Roads
 Amended Areas**

DOT ID	LENGTH	NAME	BEGIN DESC.	END DESC.	COMMENTS
267248	0.54	WHISPER RIDGE	NY 5	DEAD END	Appears an additional 0.22 miles can be claimed - Yes
	0.47	WILLEY ROAD	HITCHCOCK POINT ROAD	HARBOR TOWN ROAD	

FIREFIGHTER APPLICATIONS

A firefighter application was received from Chittenango Volunteer Fire Department, Inc. for Donnie Spear. The Board members reviewed the application for Mr. Spear. Upon a motion made by Councilor Kopp, seconded by Councilor Brzuszkiewicz, the Board unanimously approved the firefighter application for Donnie Spear for membership in the Chittenango Volunteer Fire Department, Inc.

A firefighter application was received from Chittenango Volunteer Fire Department, Inc. for Natasha Hoose. The Board members reviewed the application for Ms. Hoose. Upon a motion made by Councilor Martin, seconded by Councilor Brzuszkiewicz, the Board unanimously approved the firefighter application for Natasha Hoose for membership in the Chittenango Volunteer Fire Department, Inc.

ANNOUNCEMENTS

Councilor Kopp reported that on October 13, 2021 between 4-5:30 p.m. there will be a Zoom presentation from Syracuse Metropolitan Transportation Council in regard to the Village requested traffic study that was done on Tuscarora Road in the Village of Chittenango. This will be a time for questions and answers in regard to the study.

The link: <https://smtcmptpo.org/tuscarora/> Residents must register in advance. Meeting is open to first 100 people who register.

A resident commented that the phone number at the Bolivar Road Transfer Station isn't working.

PARKS & RECREATION MANAGEMENT CONFERENCE – JANUARY 2022

Councilor Brzuszkiewicz reported that training is available in January 2022 for Parks & Recreation personnel and he requested that the Town Board approve attendance at this conference for Lori Davies and Louie LaPlante from the Parks & Recreation Department for a cost of \$5,000.00. There is money in the Parks and Recreation budget. Upon a motion made by Councilor Martin, seconded by Councilor Kopp, the Town Board approved attendance at the Parks & Recreation Management Conference in January 2022 for Lori Davies and Louie LaPlante from the Parks & Recreation Department for a cost of \$5,000.00. With no further discussion upon a roll call vote, as follows:

John E. Brzuszkiewicz	Councilor	Voted	Yes
Thomas J. Kopp Jr.	Councilor	Voted	Yes
Kerry Ranger	Councilor	Voted	Yes
Jeffrey Martin	Councilor	Voted	Yes
John M. Becker	Supervisor	Voted	Yes

EXECUTIVE SESSION

Upon a motion made by Councilor Brzuszkiewicz, seconded by Councilor Martin, the Board entered into Executive Session at 7:35 p.m. for advice of Counsel. All of the Town Board Members voted in favor of the motion.

A motion was made by Councilor Kopp, seconded by Councilor Brzuszkiewicz and unanimously approved by the Board to come out of Executive Session at 8:30 p.m. No action was taken.

ADJOURNMENT

With no further business and upon a motion made by Councilor Brzuszkiewicz, seconded by Councilor Kopp and unanimously passed by the Board, the meeting was adjourned at 8:31 p.m.

Respectfully submitted,

Jill A. Doss
Deputy Town Clerk