

**TOWN BOARD
TOWN OF SULLIVAN
REGULAR MEETING
APRIL 3, 2019
7 P.M.**

A Regular Meeting of the Town Board of the Town of Sullivan was convened at the Town Office Building by Supervisor Becker at 7:00 P.M. on April 3, 2019.

Those in attendance for the meeting were: Supervisor John M. Becker; Councilors: Kerry Ranger, Jeffery Martin, Tom Kopp, and John Brzuszkiewicz; Attorney for the Town John R. Langey; Highway Superintendent Andy Busa; Assistant Comptroller Kyle Coon; and Secretary to Supervisor Emily Burns.

Also, in attendance: Parks and Recreation Director, Peter Bardou; and Members of the Public.

The meeting was opened at 7:00 P.M.

Pledge to the flag was led by Supervisor Becker.

APPROVAL OF MINUTES OF MARCH 20, 2019 MEETING

A motion was duly made by Councilor Martin, Seconded by Councilor Brzuszkiewicz and unanimously passed by the Board approving the minutes of the Town Board Meeting on March 20, 2019.

MADISON COUNTY EMERGENCY MANAGEMENT FIRE MUTUAL AID PLAN

A motion was duly made by Councilor Martin, Seconded by Councilor Kopp and unanimously passed by the Board to approve of the participation of the three Town of Sullivan Fire Departments in the Madison County Emergency Management's Fire Mutual Aid Plan.

OPENING AND AWARDED OF PARKS AND RECREATION TICKET BOOTH BIDS

Supervisor Becker opened 2 bids on the Parks and Recreation Ticket Booth that was deemed excess equipment. This Ticket Booth was originally advertised at the February 20, 2019 Meeting and after a tied bid at the March 20, 2019 Meeting it was ultimately decided by the Town Board to put the Ticket Booth out to bid again. The following bids were submitted:

- 1) Kara Stone offered an official bid in the amount of \$311.55 for the Ticket Booth.
- 2) Gary Heitkamp of Gary's Auto offered an official bid in the amount of \$251.49 for the Ticket Booth.

A motion was duly made by Councilor Martin, Seconded by Councilor Brzuszkiewicz and unanimously passed by the Board to accept the official bid made by Kara Stone for the Ticket Booth of \$311.55 with no warranties, express or implied.

BARTON & LOGUIDICE MS4 STORMWATER PROGRAM PROPOSAL

A motion was duly made by Councilor Kopp, Seconded by Councilor Martin and unanimously passed by the Board to accept the MS4 Stormwater Program Proposal made by Barton & Loguidice.

CHAPMAN PARK BATHROOM LOCK SYSTEMS

Supervisor Becker asked Parks and Recreation Director Peter Bardou to explain the proposed automated lock system will do and what it is for. Director Bardou explained that this system will enable the Parks and Recreation Department to operate the locks remotely as well as put them on a timer. Director Bardou also expressed that the hours will remain the same as the day time Park hours just as it has been scheduled in the past.

Councilor Kopp asked how many Bids were put in for this locking system. Supervisor Becker stated that 2 bids were submitted to Director Bardou and the bid that was chosen was from Syracuse Time & Alarm Co. Inc. in the amount of \$2,348.84.

A motion was then duly made by Councilor Brzuszkiewicz, seconded by Councilor Martin and unanimously passed by the Board to approve of the purchase of this lock system for Chapman Park.

ADOPTION OF A POLICY STATEMENT REGARDING 5G TECHNOLOGY

Supervisor Becker states that 5G technology is quickly approaching and a precautionary measure the Town should take is to implement a policy to protect ourselves with the jurisdiction over any changes to our Town property. Attorney John R. Langey then gave a quick synopsis of the upcoming changes the Town could potentially encounter as promulgated by the Federal Communications Commission (FCC) relative to new cellular technologies. Councilor Martin asked Attorney Langey if other Towns in the area are implementing a similar policy. Attorney Langey responded by saying other towns are doing this as well.

A motion was then duly made by Councilor Martin, seconded by Councilor Brzuszkiewicz and unanimously passed by the Board to adopt the following policy to protect the Town in any future changes regarding 5G technology:

**POLICY STATEMENT REGARDING FUTURE TELECOMMUNICATION
TECHNOLOGY REGULATION AND PERMITTING WITHIN THE TOWN**

April 3, 2019

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

WHEREAS, the Town of Sullivan has jurisdiction and responsibility to maintain the safety and general welfare of the public rights-of-way; and

WHEREAS, the Town of Sullivan Office of Highway Superintendent may establish a permitting process for telecommunication installations in the public rights-of-way; and

WHEREAS, the Town recognizes that wireless telecommunication technologies are important to the community, but the technology changes rapidly; and

WHEREAS, the Town is committed to the preservation of health and safety of its residents, business and visitors, and to protection of public safety by minimizing the adverse effects of wireless telecommunication facilities through an established permitting process; and

WHEREAS, the Town is committed to the protection, to the maximum extent possible, of aesthetic quality, property values, and visual character of the Town, while not unreasonably limiting competition among communication providers; and

WHEREAS, the Town does not intend to limit the use of in-house wireless communication devices installed solely for the use of the property owner or business; and

WHEREAS, the Town is committed to minimizing the visual and aesthetic impact of telecommunication facilities to the maximum extent practicable through the permitting process and by emphasizing careful design, siting, screening and innovative camouflaging techniques, and with the understanding that modification or revision or even replacement of that process may be necessary to continue to pursue these intentions as new technology is proposed to be installed within the Town; and

WHEREAS, the Town wishes to preserve and maintain all of its legal rights and options to address and reasonably regulate additional telecommunication technologies, including, but not limited to so called "4G" and "5G" technology.

NOW THEREFORE, BE IT RESOLVED that no other agency has the legal authority to adopt the proposed resolution in the Town of Sullivan, that the adoption of the proposed resolution is a Type II action and therefore will have no significant effect on the environment, thus concluding the environmental review under the State Environmental Quality Review Act; and be it further

RESOLVED that the Town of Sullivan shall reserve the right to define and/or further define "small commercial wireless facilities," which are defined, in part, by the Declaratory Ruling and Third Report and Order ("Order") issued by the Federal Communications Commission ("FCC") as facilities that are (i) mounted on structures 50 feet or less in height including their antennas as defined in 1.1320(d); or (ii) mounted on structures that are no more than 10 percent taller than other adjacent structures; or (iii) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater, which are owned and maintained by a wireless

telecommunication infrastructure provider requiring permit review as currently established or as may be established, or as may be modified by local law in the future; and be it further

RESOLVED that requirements for the siting, construction operation and maintenance of such small commercial wireless facilities shall at all times meet or exceed the most recent American National Standards Institute (ANSI) Code, National Electrical Safety Code and the National Electric Code and shall be at all times kept and maintained in good condition, order and repair by qualified maintenance and construction personnel so to protect persons and property within the Town; and be it further

RESOLVED that siting of all telecommunication facilities shall, as a matter of policy, have the least adverse effect on the environment and character of all zoning districts within the Town of Sullivan, including visual impacts, existing vegetation, residential character and lighting; and be it further

RESOLVED that all applications for the construction or installation of a new small wireless facility or modification of an existing wireless facility shall require the submission of documentation that demonstrates and proves the need for the small wireless facility to provide service primarily and essentially within the Town; and be it further

RESOLVED that the Town, consistent with the Order, hereby imposes, at a minimum, the following standards upon small commercial wireless facilities to address aesthetic and safety concerns as part of the review and permitting process:

- (1) Facilities shall be situated in a manner that minimizes proximity and visibility to residential structures, does not impede pedestrian or vehicular traffic, or otherwise create a safety hazard, and shall be no higher than the minimum height necessary;
- (2) Ground-mounted accessory equipment, walls, or landscaping shall be located in consultation with and the consent of the municipality with respect to snow removal and storage;
- (3) To the extent feasible, accessory equipment shall be placed underground; if equipment must be ground mounted, screening from surrounding views, to the fullest extent possible, through landscaping or decorative features to the satisfaction of the Town, shall be employed;
- (4) Camouflaging techniques, which may include screening and incorporating architectural features, shall be employed to limit visibility from public ways and residential uses while still permitting the facility to perform its designated function;
- (5) Where appropriate, small wireless facilities in the public right-of-way shall be collocated on existing structures, whenever possible;
- (6) Standardized, pre-approved location spacing, antenna and equipment cabinets shall be mandated;
- (7) Facilities shall be painted or shielded with street-design materials; and
- (8) The antenna and supporting electrical and mechanical equipment must be of a neutral color, so as to make the antenna and related equipment as visually unobtrusive as possible; in areas with underground utilities, additional

camouflaging techniques may be required, such as decorative utility or light poles; and be it further

RESOLVED that all standards governing small commercial wireless facilities as set forth in the aforementioned Order are hereby acknowledged and reaffirmed; and be it further

RESOLVED that as soon as practicable, and upon due deliberation, the Town shall enact such additional modified standards for such small telecommunication facilities to be situated within the Town of Sullivan, as may be necessary to assist in the review of such permits or as may be necessary upon the amendment of Town policy or the enactment of a Local Law; and be it further

RESOLVED that any approval for a small wireless facility that is proposed for Town property or in the public right-of-way shall require the applicant to at all times defend, indemnify, protect, save, hold harmless and exempt the Town and its elected officials, officers, employees, representatives and agents, from any and all damages, costs or charges which might arise out of, or be caused by, the placement, construction, erection, modification, location, product performance, use, operation, maintenance, repair, installation, replacement, removal or restoration of the small wireless facility; and be it further

RESOLVED that the Town of Sullivan Town Board hereby establishes an application fee of \$500.00 for a single up-front application of a small wireless facility, that may include up to five (5) sites, and \$100.00 per application for each site thereafter; and be it further

RESOLVED that the Town further imposes a recurring charge for each small wireless facility to be situated within the public right-of-way to be \$270.00 per site per year, which shall include all related access, permitting and rental fees.

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.

DATED: April 3, 2019

CERTIFICATE

STATE OF NEW YORK)
COUNTY OF MADISON)

I, the undersigned Deputy Town Clerk of the Town of Sullivan, Madison County, New York, **DO HEREBY CERTIFY:**

That I have compared the foregoing Resolution with the original thereof on file in the Office of the Town Clerk of the Town of Sullivan, and that the same is a true and correct copy of said original and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Board had due notice of said meeting and that, pursuant to Section 103 of the Public Officers Law, said meeting was open to the general public.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Town on April __, 2019.

PAMELA BRIONES
Deputy Town Clerk

(SEAL)

BUDGET MODIFICATIONS

A motion was duly made by Councilor Kopp, seconded by Councilor Ranger and unanimously passed by the Board to adopt the following Budget Modifications to wit;

Budget Modification for March 20, 2019

1) Transferring \$20,342.35 from Fund Balance DB909 to DB5110.2 General Repair Equipment for the purchase of OGS #PC67318 – 2019 Ford F-350 pickup truck for the Highway Department.

(The above budget modification was to confirm the transfer occurring on 03/20/2019)

Budget Modification for April 3, 2019

2) Transferring \$29,320.00 from DA2665 Sale of Equipment to DA5130.2 Machinery Equipment for the purchase of a 2019 Trailer OGS # P67423 Serial Number 5ftcf3923k1002720.

3) Transferring from SM909 Fund Balance – 385,346.00 to SM3410.2 Fire Equipment. This is to pay for the Sutphen Fire Truck for Bridgeport Fire Company. \$260,000.00 is in the 2019 budget, along with this modification for \$385,345.00 the total amount of truck is \$645,345.13.

PUBLIC HEARING FOR MORATORIUM TO REVIEW KENNEL LAW

Supervisor Becker explained the Town Board was asked in recent years to create a Kennel Law, as the existing Zoning Law had no provisions for commercial kennels and therefor the use was not allowed in the Town. After this Law was created there had been an application for a dog kennel on Moore Road. The applicant has since withdrawn their application and other residents of the Town have requested a moratorium be put in place to put a temporary hold on any future kennel applications while the law can be re-examined. Supervisor Becker stated that the Town Board is holding this public hearing to address the Town residents' concerns with the proposed 9-month moratorium. Supervisor Becker then invites Town residents to speak on this issue.

A motion was then duly made by Councilor Brzuszkiewicz, Seconded by Councilor Martin and unanimously passed by the Board to open the Public Hearing for implementing a Moratorium for review of the kennel law at 7:11 P.M.

Jeff Taylor, resident of New Boston Road, asked the Board to state the current Kennel Law language word for word for everyone present at the meeting. Attorney Langey then gave a brief synopsis of the process up to this point as well as what a moratorium would do. He then read the Kennel Law aloud. Jeff Taylor asked if the Town Board had created this Law and it was clarified by Attorney Langey that a committee was assembled to suggest what they believe should be in this Law. The committee then presented a proposed law to the Town Board. The Town Board finalized and approved the Law.

Jeff Taylor stated he is opposed to a moratorium.

Don Bates, resident of Moore Road, addressed his concerns with the anti-kennel signs all along Moore Road and would like for them to be removed. He also stated he is opposed to a moratorium.

Joan Marie Haney also stated she is opposed to a moratorium.

David Marzullo, resident of Moore Road, stated that he is in favor of a moratorium as he believes the Kennel Law should be reviewed and that a kennel would in fact impact the neighbors in a negative way.

Susan Reaume states that she is opposed to a moratorium.

Michael Valenti, resident of Moore Road, states that he is in favor of a moratorium.

Michelle McConnell, resident of Moore Road, states she believes that the Kennel Law should be reviewed and that she is in favor of a moratorium.

John Denny, resident of Jacksonville Road, states that previous kennel applicants, Michelle and Dan Beal, are respectful people and he also stated that he is opposed to a moratorium.

Holly Valenti, resident of Moore Road, states that she would like to see the previous kennel applicants, Michelle and Dan Beal, succeed at a business. However, she does not in fact wish to have a kennel near her home. She states she is in favor of a moratorium.

Erik Solberg, resident of Moore Road, states that he is in favor of a moratorium.

Attorney Langey clarified and explained that the proposed moratorium could put any open kennel application on hold for a maximum of up to 9 months. He stated that if the Town Board and assigned committee review the current Kennel Law and determine what may or may not need adjustment in a shorter period it could take less time.

Susan Reaume addressed the Board and asked who would decide on changes to the law. Supervisor Becker then states that it is the Town Board who decides on the Law, but first a committee is formed to review the current law. The committee then brings their suggestions to the Board and from there it will go to another Public Hearing if anything is going to change, should the moratorium be passed.

Chris Wells, resident of Moore Road, states he is in favor of a moratorium. He states his current concerns of water drainage on his property is a result of the ground level change on the Beal's property.

Lorenza Farr, resident of Moore Road, states that she is in favor of the moratorium. She expresses her concern of increased traffic on Moore Road if a kennel is approved.

Michelle McConnell reappeared to address the conversations that have been occurring on social media platforms. She stated that she would like to thank Dan Beal for his service in the military and insists she does not have any ill feelings towards the Beals, but does express she does not want a dog kennel on Moore Road. She also addresses the traffic concerns if this dog kennel is approved.

Michele Beal, resident of Moore Road, states that she is the applicant proposing to start the dog kennel on Moore Road. She believes that a dog kennel would be a great asset to this Town. She then addresses her neighbor's concerns with resale value, noise concerns etc. She also states that she believes putting this kennel in an agricultural area makes the most sense. Michele Beal states she is opposed to a moratorium.

Tina McNolty spoke in favor of the Beals and addressed concerns of restrictions the current law may put on other residents within the Town as well as the Beals. She states she is opposed to a moratorium.

Joan Marie Haney reappeared to express her concerns of a law already being in place and that she believes it shouldn't have to be reviewed. She once again stated she is opposed to a moratorium.

David Marzullo reappeared to express concern with 40+ dogs at the Moore Road location and the potential noise level. He also expressed his concern for loss in property value and reiterated that he is in favor of a moratorium.

Kenneth Galster, resident of Chestnut Ridge Road, states he is in favor of a moratorium and believes that the kennel law should be reviewed.

Michael Valenti, resident of Moore Road, expressed his concerns of this kennel being placed in a residential area.

David Williams, resident of Route 31, spoke of his experience with his neighbors' dog constantly barking. He states that as long as the proposed kennel exercises the dogs and their needs are met then the dogs won't bark incessantly. Mr. Williams states that he is opposed to a moratorium.

Erik Solberg reappeared to express concern that if there is no intent to hire employees for this kennel then how will the monitoring, vaccination records, and everyday upkeep work? He feels as though it is too much to handle for one individual. He once again expressed he is in favor of a moratorium.

Michele Beal once again stated that she is opposed to the moratorium. She expressed her concern that with the kennel law being reviewed again, it will once again create a Public Hearing to hear all of the neighbors' input and the same process with repeat itself.

George Valenti, resident of Moore Road, explained that in the past, residents of Moore Road submitted a petition with over 50 signatures which the Town has received. He also expressed concern with the kennel proposal and he believes that the distance stated in the proposal of where the kennel will be located in association to his property line is incorrect. He once again stated that he is in favor of a moratorium.

Carrie Montroy, resident of Schuyler Drive, asked the Board to explain what a Moratorium is and what it does for those who do not understand. She also asked for the Board to explain the process and asked if a committee is formed what happens from there. Supervisor Becker then responded he was happy to explain the process from the beginning. Supervisor Becker stated the Town Board was asked to put a Kennel Law in place. He explained that after forming a committee and taking the Town residents thoughts into consideration, this process took roughly a year to create a Law that had everyone's concern in mind. The Town Board then passed this Law and from there anything proposed then becomes the Planning Board's job to enforce the parameters of this Law. Supervisor Becker then continued to explain that the Town Board has taken resident's concern into consideration and are addressing whether a moratorium is necessary to re-evaluate the current Kennel Law. Supervisor Becker states that if a moratorium were to be implemented it would put any Kennel applications on hold for a maximum of 9 months. He explained that if the Town Board decides to implement this moratorium, they must first receive a GML referral from the Madison County Planning Department. The Madison County Planning Department provides a recommendation determining whether this will have a negative effect on a County-wide basis. Supervisor Becker explained that a decision will not be made at this Board Meeting and can not be made until this GML is received. He stated that this Public Hearing is being held so that the Town Board can hear whether the Residents of the Town are either in favor or if they are opposed to a moratorium and their specific thought on the matter to better inform the Town Board.

Councilor Ranger then addressed how such a committee is formed if a moratorium is passed. He stated it will be a cross section of residents within the Town as well as a member from the Town Board. The committee will then take a look at the current Law in place and address any concerns and then present their recommendations to the Town Board.

Dennis DeForge, resident of Moore Road, addressed his concerns with his young son having a fear of dogs and if he is walking home from the school bus past a kennel or if a dog were to get loose. He stated that he is in favor of a moratorium.

David Marzullo again appeared to express that his main concern is what the current Law states, that the natural flora of the neighborhood will be affected and that the Planning Board should take that into consideration. Supervisor Becker responds by saying that with this concern in mind, he believes that such a matter is up to the Planning Board to decide, because this issue is currently a part of the existing Law. By implementing a moratorium, they would need to review and potentially adjust it. However, if the concern is already addressed by the current Law, then the Planning Board needs to stand by that Law when making a decision. Mr. Marzullo explained the residents feel as though the interpretation of the Law is solely up to the members of the Planning Board and that they believe the Law should be articulated in a way so that it is not so much left to interpretation.

Another resident then expressed concern of how do you actually mandate what is or is not personal enjoyment to an individual and also stated they feel as though this should not be written into the Law.

Tina McNolty addressed the Board asking if there is currently a noise ordinance in place in that area. Supervisor Becker stated that there is not and explained the Town's negative experiences in the past with the attempt in implementing a noise ordinance. Tina McNolty then expressed concern that she believed the noise should not be considered in this issue if it is something that is difficult to mandate.

Michele Beal addressed the Board again to ask if emails and letters were received and if they are all taken into consideration before making a decision. Supervisor Becker responded by saying that those letters and emails are and will go on record and will be taken into consideration as well.

Supervisor Becker makes a closing statement regarding the letters, email's and social media forum. He asks that there be more civil conversation among neighbors and residents regarding this topic. He thinks that being civil would go a long way and in order to accommodate everyone's concerns we should all take a step back and make an attempt to hear each other's side of the issue and take it into consideration.

Supervisor Becker then asked for a motion to close the Public Hearing. A motion was duly made by Councilor Martin, seconded by Councilor Brzuszkiewicz and unanimously passed by the Board to close the Public Hearing at 8:05 P.M. No vote can occur on the proposed moratorium until the GML referral is received

OTHER MATTERS DISCUSSED

- 1) Dan Gibbons thanked Supervisor Becker and the Town Board for their assistance in implementing the Chittenango School District's SRO Program. This program provides School Resource Officers on the School grounds to increase the safety of our Schools and more importantly, the safety of our children. Supervisor Becker stated that the State's Budget has once again approved of \$2.25 Million in Host Community Monies to go to Madison County

meaning that the Town will again receive the funds to be able to fund the SRO Program for another year.

- 2) A resident of the Town asked the Board if Marsh Mill Road is going to be re-paved again. Highway Superintendent, Andy Busa responded by saying that it is on the schedule for 2019 to be paved. This same resident asked what the current update is for his culvert. Highway Superintendent, Andy Busa responded, that the DEC does not recommend that culvert pipe be put in. He also offered to give this resident contact information of Madison County Soil & Water Conservation Department. This Resident explained that he has been in contact with Soil & Water and they told him it was Town property. Andy Busa expressed, it is Town property, however, the Town can not do anything without permission from DEC.
- 3) A resident of the Town gave a thanks to the Town Highway Department with all of their hard work over the course of the winter. This resident also inquired about what is happening on the side street across from the Madison County Courthouse. Supervisor Becker explained that the project that is currently underway is a tomato growing facility. Currently there are 30 acres of greenhouse built. They are going to employ about 150 people paying upwards of \$15 per hour. There is a contingency plan if they are unable to fill all of those positions. They may have a migrant work force in that instance. Supervisor Becker also stated there are 3 phases to this project and when completed there will be up to 100 acres "under glass".
- 4) A resident of the Town then addressed the Board with concern of how the Board addressed a question made during the Public Hearing.

EXECUTIVE SESSION

A motion was duly made by Councilor Martin, seconded by Councilor Kopp and unanimously passed by the Board to enter into executive session to receive legal advice and to discuss the employment history of a particular employee at 8:12 P.M.

A motion was duly made by Councilor Brzuszkiewicz, seconded by Councilor Ranger and unanimously passed by the Board to close executive session at 10:00 P.M.

ADJOURNMENT

A motion was duly made by Councilor Brzuszkiewicz, seconded by Councilor Ranger and unanimously passed by the Board to adjourn the Town Board Meeting at 10:01 P.M.

Respectfully Submitted,
Emily Burns, Secretary to Town Supervisor