

**TOWN BOARD
TOWN OF SULLIVAN
REGULAR MEETING
NOVEMBER 6, 2019
7:00 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 November 6, 2019.

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

Also, in attendance: Matthew Vincent from the Census Bureau.

Meeting opened at 7:00 P.M.

Pledge to the flag was led by Supervisor Becker.

APPROVAL OF OCTOBER 9, 2019 AND OCTOBER 16, 2019 MEETING MINUTES

A motion was duly made by Councilor Martin, seconded by Councilor Brzuszkiewicz and unanimously approved by the Board to approve the minutes from the October 9, 2019 Town Board Meeting and the October 16, 2019 Town Board Meeting.

MS4 STORMWATER COALITION 2020 PROPOSAL

A motion was duly made by Councilor Martin, seconded by Councilor Brzuszkiewicz and unanimously approved by the Board to accept the MS4 Stormwater Coalition 2020 Proposal, and to authorize Supervisor Becker to execute the Agreement on behalf of the Town of Sullivan.

**SNOW & ICE AGREEMENT BETWEEN TOWN OF SULLIVAN AND MADISON
COUNTY**

A motion was duly made by Councilor Kopp, seconded by Councilor Martin and unanimously approved by the Board to accept the proposed Snow and Ice Agreement for the 2019-2020 season between the Town of Sullivan and Madison County Highway Departments, and to authorize Supervisor Becker to execute the Agreement on behalf of the Town of Sullivan.

PERMISSION TO BID OUT FUEL FOR HIGHWAY DEPARTMENT

A motion was duly made by Councilor Brzuszkiewicz, seconded by Councilor Martin and unanimously approved by the Board to authorize Highway Superintendent Andy Busa to bid out for fuel for the 2019-2020 season.

CENSUS BUREAU PRESENTATION

Matthew Vincent, a member of the Census Bureau, gave a 15-20-minute presentation on the Census Bureau and shared the anticipated schedule for the upcoming year. Mr. Vincent further discussed the benefits of the Census as well as the job opportunities this creates and answered questions from the Town Board. This presentation is posted on the Town Website for viewing as well.

PUBLIC HEARING FOR IMPLEMENTING MORATORIUM ON COMMERCIAL SOLAR FARMS

A motion was duly made by Councilor Martin, seconded by Councilor Kopp and unanimously approved by the Board to open the Public Hearing or implementing an up to 12-Month moratorium on Commercial Solar Farms at 7:17 P.M.

Mike Callahan, Resident of the Town of Sullivan, addressed the Board with the questions of why the Town is considering a Moratorium. Supervisor Becker stated that the Town of Fenner is currently looking at an application that would like to construct a 1,400-acre solar farm and the Town Board would like to take the time to do a little more research before they are approached by any similar company in the Town of Sullivan.

Councilor Brzuszkiewicz expressed concern with the remnants of the solar panels after they have reached their life span. Councilor Martin brought up that for some larger Solar Farms that reach a certain size, it is turned over to the State and the Town will lose some local control for such projects.

Elroy Heselton, resident of the Town of Sullivan, addressed the Board asking when the questions being asked will be answered. Supervisor Becker explains that the Board would like to form a committee to discuss the concerns and help research more about this topic.

A resident of the Town of Sullivan addressed the Board with concerns of whether the solar panel materials could affect the environment at the end of their lifespan. Supervisor Becker responded by saying that these are the questions they would like to have a chance to answer by implementing a moratorium.

Joe Mendelsohn, a solar developer with Omni Navitas, expressed he understands the Town's concerns when it comes to large proposed solar farms. He further expresses that he would like to see if there was a way to prevent the large commercial solar farms rather than the 15-20-acre project they are trying to bring in to the Town.

A resident of the Town expresses his concern for farmers that are using Solar Panels to provide tax relief on their properties when they are struggling to make ends meet.

Supervisor Becker expresses that the Town Board understands the struggles that farmers may be going through however, the Town Board is looking to have more time in order to answer many of the questions and concerns that they have.

A motion was duly made by Councilor Martin, seconded by Councilor Kopp and unanimously approved by the Board to close the Public Hearing at 7:30 P.M.

Supervisor Becker then asked for a motion to take action on implementing an up to 12-month moratorium on commercial solar farms. A motion was duly made by Councilor Brzuszkiewicz, seconded by Supervisor Becker, but was not unanimously approved by the Board to implement a moratorium on Commercial Solar Farms.

The Board then further discusses the ramifications and addressed the Town Attorney with questions on complications.

A motion was duly made by Councilor Martin, seconded by Councilor Ranger and unanimously approved by the Board to table the decision on implementing a 12-month Moratorium on Commercial Solar Farms.

PUBLIC HEARING UTILIZING THE TOWN OF SULLIVAN ROOF RESERVE FUND

Supervisor Becker explained that the Highway Department's Salt Storage Shed Roof needs repairing.

A motion was duly made by Councilor Brzuszkiewicz, seconded Councilor Martin and unanimously approve the Board to open the public hearing to discuss the use of the Town of Sullivan Roof Reserve Fund at 7:54 P.M.

Supervisor Becker addressed the public asking if there was anyone present to speak in favor or opposition of the use of these funds. No one came forward.

A motion was duly made by Councilor Kopp, seconded by Councilor Martin and unanimously approved by the Board to close the public hearing at 7:55 P.M. and to authorize the use of the reserve funds for the roof repairs.

APPOINTMENT OR APPLICATION FOR MEMBERSHIP IN THE FIRE COMPANIES COMPRISING THE SULLIVAN FIRE DISTRICT

The Board acting as the Board of Fire Commissioners, received an application from Caitlynne Perry for membership in the Bridgeport Fire Department.

A motion was duly made by Councilor Kopp, seconded by Councilor Brzuszkiewicz and unanimously approved by the Board, acting as the Board of Fire Commissioners, accepting Caitlynne as a member of the Bridgeport Fire Department.

BUDGET MODIFICATIONS

Transferring \$14,975.00 from Contingent SM1990.4 to Fire Equipment SM3410.2 – as per Chittenango Fire Department explaining to the Board, they aren't able to purchase this out of their 2019 budget. The Board unanimously authorized the purchase at the July 3, 2019 meeting.

OTHER MATTERS DISCUSSED

1. Supervisor Becker mentioned that Walker Tree Care has planted the new Christmas tree at the Bridgeport United Methodist Church. Councilor Ranger further expressed that Walker Tree Care did a great job.
2. Councilor Brzuszkiewicz addressed Supervisor Becker with questions regarding the Pine Ridge Road Water District and that residents are expressing interest in receiving public water. Supervisor Becker explained some history regarding that area and bringing water to those residents. He further explained that he will look into it and follow through with what they had previously and revisit the proposed water district.

RESOLUTION AUTHORIZING THE SALE OF TOWN EQUIPMENT THROUGH AUCTIONS INTERNATIONAL

Supervisor Becker gave a summary of the surplus Highway equipment listed and sold on Auctions International. The following items were advertised for sale:

<u>Equipment</u>	<u>Bid</u>
Fiberglass Sander	\$10.00
2001 Mack CL700 Cab & Chassis	\$6,700.00
2014 Ford F250 XL Super Duty Pickup Truck & Plow	\$18,500.00
1988 International 2674 Dump Truck	\$2,225.00
1986 Mack RM6866 S Sander Truck & Plows	\$4,200.00
2018 Ford Truck Bed	\$1,125.00

A motion was duly made by Councilor Ranger, seconded by Councilor Martin and unanimously approved by the Board to approve the sale of the Surplus equipment listed on Auctions International without any warranties, express or implied.

EXECUTIVE SESSION

A motion was duly made by Councilor Martin, seconded by Councilor Brzuszkiewicz and unanimously approved by the Board to enter into executive session at 8:01 P.M. concerning the employment history of a particular person

A motion was duly made by Councilor Kopp, seconded by Councilor Martin and unanimously approved by the Board to exit executive session at 9:15 P.M.

CORRESPONDENCE FROM JEFFREY MULCAHY
CONCERNING FREEDOM OF INFORMATION

The Board reviewed a letter from Jeffrey Mulcahy, purportedly dated October 21, 2019, and received by the Town on October 28, 2019, which letter referenced Freedom of Information requests by Mr. Mulcahy. After review of Mr. Mulcahy's correspondence, the following letter was unanimously authorized to be sent to Mr. Mulcahy on motion by Councilor Brzuszkiewicz and seconded by Councilor Ranger, to wit:

CERTIFIED MAIL/RETURN RECEIPT
REQUESTED & FIRST-CLASS MAIL:

Jeffrey Mulcahy
825 Fyler Road
Kirkville, New York 13082

Re: Town of Sullivan –Freedom of Information Law

Dear Mr. Mulcahy:

Please be advised that the Town of Sullivan Town Board received a document mailed to "Town of Sullivan Board (*sic*)" on October 28, 2019 (post-marked October 26, 2019). This correspondence states the following:

"APPEAL ALL FOIL DENIALS

1. *All FOILS have previously been accepted and denials are now all 4-15 months old outside time period to deny. (sic)*
2. *No legal basis just the Town of Sullivan standard Delay and Denial all public information. Accepted June 24,2019, working on September 20,2019, Denied September 23,2019. (sic)*
3. *Examples: phone records request was not duplicate but asked for details not just amount of bills as previously provide. (sic)*
4. *Example: Topographic Survey. Simple I know of one my mother, by Larry Ball (sic)*
5. *Example: 1099's. Bids or proposals contractors submitted to the Town and invoices for payments of anyone issues a 1099. SIMPLE three other municipalities had to me within 20 days. (sic)"*

It is first noted that it is unclear if your correspondence is an attempt to take a formal appeal of certain FOIL determinations previously made by the Town of Sullivan's Records Access Officer pursuant to the Freedom of Information Law of New York State. Your correspondence lacks any specificity as to the specific prior determinations you may be appealing.

However, the Town of Sullivan Town Board, as the body designated to review appeals under the New York State Freedom of Information Law, has made its determination with respect to your correspondence.

To the extent your correspondence is an “appeal” of undetermined FOIL requests previously made by you, the Town Board has determined to uphold Deputy FOIL Officer Briones’ previous determinations for the reasons stated in her correspondences. In Deputy FOIL Officer Briones’ numerous prior correspondences, she had advised of the specific reasons for each of her determinations. In addition to the above, any appeal is untimely as it was submitted to the Town Board beyond the 30-day statute of limitations. You have been made aware of the time upon which to file an appeal of a FOIL decision and the appropriate body to whom to bring your appeal.

To the extent that this is an attempt to appeal any prior FOIL determinations, the requesting party was required to file an “administrative *appeal within 30 days*” (Public Officers Law §89[4][b]). *McGriff v. Bratton*, 293 AD2d 401, 402 (1st Dept 2002) (*emphasis added*). Furthermore, if a second duplicative request is made, “[b]elated judicial review of that denial cannot be based on petitioner’s second request for the same information...” *Id*; see *Matter of Garcia Division of State Police*, 302 AD2d 755, 756 (3d Dept 2003); see also FOIL-AO-f17012.

This purported “Appeal” was clearly made over 30-days after the initial determinations by the Town of Sullivan’s Records Access Officer. Further the nature of your “correspondence” is confusing, vague and unintelligible. The correspondence is titled “*APPEAL ALL FOIL DENIALS*” with language that is incoherent and unreadable. “*Simple I know of one my mother, by Larry Ball*” (as well as other language used in your correspondence) is not readily understandable to any member of the reviewing body and only leads to the purported “appeal” being too general and vague to respond to, even if it were not time barred for review.

We therefore uphold all prior determinations by the Town of Sullivan Records Access Officer.

Very truly yours,

John M. Becker
Town of Sullivan Supervisor

cc: John R. Langey, Attorney for the Town
NYS Committee on Open Government

RESOLUTION SETTING FEE FOR SPECIAL EVENT PERMITS

A motion was duly made by Supervisor Becker, seconded by Councilor Martin, to set the permit fee for special events, as authorized by local Law No. 1-2019, “A Local Law to Enact a Special Events Law in the Town of Sullivan”, at \$100.00 per event with a \$100 capped fee for a two-day consecutive/weekend event.

ADJOURNMENT

A motion was duly made by Councilor Martin, seconded by Councilor Ranger and unanimously approved by the Board to adjourn the Town Board Meeting at 9:20 P.M.

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Respectfully Submitted,
Emily Burns, Secretary to Supervisor