

## Official Minutes

A regular meeting of the Town Board of the Town of Lima, County of Livingston and the State of New York was held at the Town Hall, 7329 East Main Street, Lima, New York, on the **5th day of February 2019** at 6:00 P.M. Notice was printed in the Mendon-Honeoye Falls-Lima Sentinel.

PRESENT:                   Supervisor, Michael Falk  
                                Deputy Supervisor, Ian Adams  
                                Councilperson, Dan Marcellus  
                                Councilperson, Cathy Gardner  
                                Councilperson, Bruce Mayer  
                                Councilperson, Bill Carey  
                                Town Clerk, Jennifer Heim  
                                Town Attorney, James Campbell  
Excused:                   Highway Superintendent, Keith Arner

**Guest(s):** Tom Simpson

### **Call the Meeting to Order**

Supervisor Falk called the meeting to order at 6:00 P.M. followed by the Pledge of Allegiance.

### **Open the Public Hearing – A Moratorium Intended to Temporarily Prohibit the Creation or Siting of Large Scale Solar Power Installations within the Town of Lima for a Period of 3 Months.**

Supervisor Falk opened the public hearing at 6:00PM for a proposed local law relating to the following: A Moratorium within the Town of Lima, Livingston County, New York intended to temporarily prohibit the creation or siting of large scale solar power installations within the Town of Lima for a period of up to three (3) months commencing April 2, 2019, which such Moratorium is intended to allow the development and adoption of local laws and/or ordinances to regulate and govern such installations.

Falk asked if any members of the pubic wished to comment on above subject. Mr. Simpson did address the board stating that he thinks NYS emphasizing to be energy dependent the Town should thing about considering solar power installations as there is land in Lima not being farmed, and knows farmland is important, but if land is not being farmed it should be considered for a

possible site for solar power. He mentioned other towns have large scale solar installations such as Avon, Mt. Morris and Caledonia. He mentioned that said installations have impacted their finances very positively and believes that "the taxes would probably go down to zero". He went on to say he believes it is important to make laws to protect the town and protect home values but to also consider there are possibilities with spaces in Lima for solar installations. Mr. Simpson asked if the proposed local law was online. Attorney Campbell indicated it is not but that the 3 month moratorium extension will give the board and public until July to consider adoption of the regulations procedurally.

### **Supervisor's Report**

Supervisor Falk mentioned receipt of said report. On a motion by Councilperson Gardner to accept the Supervisor's report, seconded by Councilperson Carey, the vote went as follows:

CARRIED:           Ayes: 5       Falk, Marcellus, Mayer, Gardner, Carey  
                        Nays: 0

### **Building Inspector/Code Enforcement Officer Report**

CEO, Charlie Floeser, discussed highlights. Motion by Councilperson Marcellus to accept the report, seconded by Councilperson Gardner, the vote went as follows:

CARRIED:           Ayes: 5       Falk, Marcellus, Mayer, Gardner, Carey  
                        Nays: 0

### **Town Water Report**

Highway Superintendent Arner emailed a water report to the Town Board for review. Said report had no issues to report with regards to water districts.

### **Audit of Claims/Abstracts**

Resolved that the bills contained on Abstract #2 have been reviewed by the Town Board and are authorized for payment in the following amounts:

General Funds:	No. 12 through 48	\$14,048.26
Water Funds 1, 2, &3:	No. 2 through 6	\$ 2,023.45
Highway Funds:	No. 12 through 30	\$26,535.82

On a motion by Councilperson Gardner, seconded by Councilperson Marcellus, the vote went as follows:

CARRIED            Ayes: 5       Falk, Marcellus, Mayer, Gardner, Carey  
                    Nays: 0

### **Town Board Minutes - January 2<sup>nd</sup> and January 8<sup>th</sup>**

Minutes from the January 2<sup>nd</sup> and January 8<sup>th</sup> Town Board meeting were approved, upon motion by Councilperson Gardner, seconded by Councilperson Carey, the vote went as follows:

CARRIED            Ayes: 5       Falk, Mayer, Gardner, Marcellus, Carey  
                    Nays: 0

### **Guest(s)**

Tom Simpson wished to also let the board know he is seeing more and more of farm equipment that soon will be electric powered so there will be a greater demand for more electricity.

### **Complete Streets Resolution**

After discussion, new language needs to be entered in the complete streets resolution to include all new subdivisions will be required to have sidewalks and within the bounds of those subdivisions sidewalks will be dedicated to the Town. Councilperson Gardner mentioned the Town should additionally look to adopt something in code since this is putting forth the town's goal and having complete streets and what those consist of it seems important to include that provision to be enforceable. Campbell will look at design standards. Councilperson Gardner stated if we do not have design standards to look at what the Village has to have a consistent provision for sidewalks. Councilperson Gardner asked if the board should allow Campbell more time to look into commercial design criteria, as well, with regard to easements and sidewalk provisions to allow the board to look at same and decide whether some changes need to be considered relating to the complete streets resolution.

### **Kevin Simmons Reappointment to Board of Ethics**

Supervisor Falk spoke with Kevin Simmons who said he would like to be reappointed as member of the Board of Ethics. Mr. Simmons new term is 2019-2023. Upon motion by Councilperson Mayer to accept Mr. Simmons reappointment, seconded by Councilperson Gardner, the vote went as follows:

CARRIED            Ayes: 5       Falk, Mayer, Gardner, Marcellus, Carey  
                    Nays: 0

## **Appointment to Board of Ethics**

Falk mentioned Mary Jule Welch resigned from the Board of Ethics. Anthony Catalano completed an application indicating his interest to the Board of Ethics. Upon motion by Councilperson Mayer to fill this position, seconded by Councilperson Gardner, the vote went as follows:

CARRIED            Ayes: 5       Falk, Mayer, Gardner, Marcellus, Carey  
                    Nays: 0

## **Board of Assessment Review**

The board received the letter below from Tami Snyder, Assessor.

### **Town of Lima Assessor Office**

7329 East Main Street, Lima, NY 14485

Phone: (585) 624-6120

Office Hours: Mon 8:00-3:00; Tues 8:00-12:00; Thurs 8:00-12:00

Email: assessor@townoflima.org

**Tami Snyder, Assessor (only available Mon hrs)**

January 28, 2019

RE: Open Board of Assessment Review Position for 2019

Dear Town Board Members:

We have 1 open position on the Board of Assessment Review this year. In December I was provided with a list of people whom had previously applied for a variety of positions. I had the opportunity to meet with 1 individual from that group in January for an interview, Nicole Snyder.

Nicole Snyder and her family rent a place in the Lima community. We had a nice interview; she is a pleasant young lady. She initially was not aware of what the position of Board of Assessment Review Member entailed or exactly what the Assessor's job was, but I explained what would be asked of her in this position. She now realizes there would be an evening of training, confidentiality is important in discussing these matters as well as what her role would be. She seemed eager to learn.

I do not know if the Town Board will be posting this position (or has already) and if further candidates have applied, and/or if we should consider interviewing others. I would encourage the Board to perhaps contact Nicole Snyder (# 585-469-5017) and interview her yourselves if you wish. If you are satisfied with the information I have provided about our interview in this letter, simply make your decision. I would like this position filled no later than March 1, 2019 if possible as training will be in April.

If there are further questions please feel free to contact me. Please let me know your final decision on this matter. Thank you.

Sincerely,

Tami Snyder

Upon motion by Councilperson Mayer to accept Nicole Snyder to Board of Assessment Review, seconded by Councilperson Carey, the vote went as follows:

Ayes: 3	Falk, Mayer, Carey
Nays: 0	
Abstained: 2	Gardner, Marcellus

Councilperson Gardner and Marcellus abstained due to procedural and lack of advertising for said position and stated it is not an objection to the candidate. She also asked the board to agree to advertise for any position that is available and to be certain the Planning Board member opening is advertised. The board agreed. It was agreed to start advertising in the Penny Saver and on the website.

Falk also mentioned receipt of another letter of interest. The board discussed the possibility of having a substitute for the BAR. Campbell will look into the statute to determine if you can have an alternate for the BAR.

### **Post Office**

Falk mentioned the rest of the roof was not repaired. Currently waiting to see if the building is leased or bought and repairs begin.

### **Electronic Communications**

Falk said he received a phone call asking why the Town renewed a subscription to the Sentinel instead of Livingston County News. The Sentinel is the official paper for the Town of Lima at this time.

Councilperson Marcellus asked that "electronic communications" be renamed "communications". This item will be renamed.

The Village of Lima will no longer be on the Town website per their choice. They will create and manage their own website. Marcellus will setup a projector at the next meeting to look at the website for updating and possible other social media options, such as Facebook.

### **Out-of-District Sewer User on York Street- Perry Property**

Attorney Campbell had conversations with Mike Tobin, Esq., attorney for Village of Honeoye Falls. Campbell indicated Village of Honeoye Falls adopted a municipal agreement for the Town of Lima to consider. This agreement states that the Town of Lima will undertake to be responsible for the collection of out-of-district sewer charges by putting said charges on their annual tax bill. Once these fees are collected the Town of Lima Clerk would

then remit those fees back to the Village of Honeoye Falls. After discussion the board agreed that this is not an ideal situation or best possible solution. Campbell will let Tobin know the Town of Lima is not in favor and to seek alternate means. Possibly ask for a security deposit and hold same in escrow in case of defaulting on payments for said service.

### **Village Hooking into Avon Water**

No update(s) at this time.

### **Historical Society Agreement**

Falk would like to see a new agreement created between the Town and Lima Historical Society, as last year's agreement expired at the end of the year. Currently the town budgets \$5,000 and receiving vouchers from the LHS for reimbursement on utilities, flooring, driveway, etc., and the current discussion is to have the Town of Lima reimburse LHS for equipment to enter records into a computer. He is waiting for opinions from the NYS Comptroller's Office to what the Town is responsible for. Supervisor Falk will meet with Matt Lenahan, President of the Lima Historical Society to discuss same. Campbell will then prepare a new agreement.

### **HFL – M Youth Baseball Agreement**

Falk asked for a motion to accept the agreement received from David Donatello, President, of the HFL-M YB. Upon motion by Councilperson Carey to accept same, seconded by Councilperson Mayer, the vote went as follows:

CARRIED              Ayes: 5     Falk, Mayer, Gardner, Marcellus, Carey  
                          Nays: 0

### **Municipal Cooperation Agreement with the Village of Lima Water District Number #2**

Falk mentioned receipt of the water agreement from the Village and the percentage responsible by the Town is 12.20%. Councilperson Gardner asked to have research completed before signing the agreement to determine findings of the amount billed to Town users in District #2 and how much the Village is billing the Town for usage in District #2. Councilperson Marcellus mentioned that the Town has a percentage in owing for the infrastructure so why does the Town not see the revenue side of the infrastructure and same be included in the agreement to be equitable. Councilperson Gardner and Mayer agreed with Marcellus. Campbell will speak with Village attorney Kruk regarding revenue shares to the Town, if any. Falk mentioned, because of the

12.20%, the Town should also have a seat at the table with the Village to discuss the design of new infrastructure. Discussion is being tabled and findings will be discussed at the next meeting. It will be determined then if the board agrees to sign the agreement.

### **Summer Recreation Agreement**

Falk mentioned the original agreement was signed by Falk and hand delivered to the Village. A new agreement was sent back to the Town from the Village with Mayor Luft's signature with an appendix limiting the Village's exposure on costs. The board agreed that Clerk Heim will email the school to get a new agreement for Town Signature. Councilperson Gardner agreed and stated the Town should sign an agreement for the Town and the Village sign their agreement for the Village now that said agreement is held by the HFL School District and no longer the Lima Program. Falk will sign said agreement when received and mail back to the school.

### **Street Light Agreement**

Falk emailed an agreement, from National Grid who indicated grant money was available to replace current lights to LED version, to the board that read as follows: We have 35 streetlights in the Town outside the Village and at the Town Hall and Library. The Town would pay \$54.30 per light to have them converted to LED (\$1900.50). The LED conversion will save us electricity, reducing our monthly operating costs. Once the project is completed, a grant will rebate the Town \$2300.00. We would be net positive \$399.50.

Annual projected cost savings would be \$1169.51. The responsibility of the replacing the lights will be with National Grid and not the Highway Department. Motion by Councilperson Mayer to sign the agreement and move forward, seconded by Councilperson Gardner the vote went as follows:

CARRIED            Ayes: 5       Falk, Mayer, Gardner, Marcellus, Carey  
                    Nays: 0

### **Water District #2 Charges for Eugene Coates**

Falk mentioned that Eugene Coates and David Meisenzahl both have access to water service/use but they do not, however, David Meisenzahl pays the minimum fee whether he uses water or not and yet there is no record of Eugene Coates paying this minimum. More research needs to be completed to determine if Mr. Coates ever paid any fees or if he was in an Agricultural district and did not have to pay these fees.

## **Resolution #3 of 2019**

### **Temporary Extension of Tax Payment**

TOWN BOARD  
TOWN OF LIMA  
COUNTY OF LIVINGSTON

#### **RESOLUTION #3 of 2019**

At a regular meeting of the Town Board of the  
Town of Lima, Livingston County, State of New York,  
held at the Lima Town Offices on February 5, 2019

**WHEREAS**, the New York State Legislature and Governor Cuomo have recently adopted and approved new legislation to amend certain provisions of the New York State Real Property Tax Law that provide local municipalities the option to temporarily extend the payment period for local real property taxes to a person (or a spouse or domestic partner of such person) who has either been furloughed or designated as a non-pay federal employee due to a period of a lapse in discretionary appropriations by the federal government; and

**WHEREAS**, such legislation is designated and shall be known as Section 925-e of the New York Real Property Tax Law (RPTL §925-e); and

**WHEREAS**, RPTL §925-e provides that any deadline with respect to the payment of such real property tax may be extended for a period of ninety (90) days after the end of such lapse in discretionary appropriations by the federal government; and

**WHEREAS**, RPTL §925-e 1. (B) provides that a municipal corporation that authorizes such an extension shall require documentation by a person requesting an extension demonstrating that they have been furloughed or designated non-pay as a result of a period of a lapse in discretionary appropriations by the federal government. Such documentation shall be submitted to the collecting officer no later than the thirtieth day following the last day for paying such taxes without incurring interest or penalty, as determined without regard to the provisions of such section; and

**WHEREAS**, RPTL §925-e 1. (C) provides that an extension that has been authorized pursuant to this said amendment shall apply to all taxes that are payable to the collecting officer without interest or penalty from the date on which such lapse in discretionary appropriations by the federal government began until the date on which such lapse shall end, including installment payments that are due during that period. Such extension shall apply not just to the real property taxes of the municipal corporation, but also to the taxes of any other municipal corporation or corporations that are payable to the tax collecting officer, as well as to any special ad valorem levies and special assessments that are payable to said tax collecting officer; and

**WHEREAS**, RPTL §925-e 2. provides that where an extension has been granted, and such taxes are not paid by the ninetieth (90) day after the end of such lapse in discretionary appropriations by the federal government, those taxes shall be subject to interest and penalties as provided by RPTL §924 which shall begin to accrue on the first day after the end of such extension and shall continue to accrue until paid; and

**WHEREAS**, RPTL §925-e 3 provides that if, at the time the collecting officer's warrant expires, extensions granted pursuant to RPTL §925-e are in effect, the following provisions shall apply:

(A) When making his or her return of unpaid delinquent taxes to the county pursuant to RPTL §936, the collecting officer shall separately list the unpaid taxes attributable to those persons who have been granted tax payment extensions pursuant to RPTL §925-e. Those taxes shall thereafter be payable to the County Treasurer as provided by RPTL §942, but without interest or penalty as long as they are paid on or before the last day of the extension period; and

(B) When discharging his or her responsibilities under RPTL §904 (2), the collecting officer's warrant shall be deemed amended so that the amount to be paid to the Town Supervisor pursuant to such section shall be reduced by the total amount of unpaid taxes attributable to persons who were granted tax payment extensions pursuant to RPTL §925-e; and

**WHEREAS**, in order for a local municipality to provide such extension to certain furloughed or designated non-pay federal employees, the Town Board of such municipality must adopt a resolution authorizing the same within its community; and

**WHEREAS**, the Town of Lima wishes to provide to its residents that qualify as furloughed or designated non-pay federal employees, the extension of time to remit payments for real property taxes as provided for in RTL §925-e; and

**NOW, THEREFORE**, upon motion by \_\_\_\_\_, seconded by \_\_\_\_\_, it is hereby

**RESOLVED**, that the Town Board of the Town of Lima does hereby opt in to the provisions of New York State Real Property Tax Law §925-e which provide the Town Tax Collector the option to temporarily extend the payment period for local real property taxes to a person (or a spouse or domestic partner of such person) who has either been furloughed or designated as a non-pay federal employee due to a period of a lapse in discretionary appropriations by the federal government; and be it further

**RESOLVED**, that in order to grant such extension, the Town Tax Collector shall require documentation by a person requesting an extension demonstrating that they (or their spouse or domestic partner) have been furloughed or designated non-pay as a result of a period of a lapse in discretionary appropriations by the federal government. Such documentation shall be submitted to the Town Tax Collector no later than the thirtieth day following the last day for paying such taxes without incurring interest or penalty; and be it further

**RESOLVED**, that an extension that has been authorized pursuant to this resolution shall apply to all taxes that are payable to the Town Tax Collector without interest or penalty from the date on which such lapse in discretionary appropriations by the federal government began until the date on which such lapse shall end, including installment payments that are due during that period. Such extension shall apply not just to the real property taxes of the Town of Lima, but also to the taxes of any other municipal corporation or corporations that are payable to the Town Tax Collector, as well as to any special ad valorem levies and special assessments that are payable to said Town Tax Collector; and be it further

**RESOLVED**, that where an extension has been granted, and such taxes are not paid by the ninetieth (90) day after the end of such lapse in discretionary appropriations by the federal government, those taxes shall be subject to interest and penalties as provided by RPTL §924 which shall begin to accrue on the first day after the end of such extension and shall continue to accrue until paid; and be it further

**RESOLVED**, that if, at the time the Town Tax Collector's warrant expires, extensions granted pursuant to RPTL §925-e are in effect, the following provisions shall apply:

1. When making his or her return of unpaid delinquent taxes to Livingston County pursuant to RPTL §936, the Town Tax Collector shall separately list the unpaid taxes attributable to those persons who have been granted tax payment extensions pursuant to RPTL §925-e. Those taxes shall thereafter be payable to the Livingston County Treasurer as provided by RPTL §942, but without interest or penalty as long as they are paid on or before the last day of the extension period; and
2. When discharging his or her responsibilities under RPTL §904 (2), the Town Tax Collector's warrant shall be deemed amended so that the amount to be paid to the Town Supervisor pursuant to such section shall be reduced by the total amount of unpaid taxes attributable to persons who were granted tax payment extensions pursuant to RPTL §925-e.

Dated: February 5, 2019

Upon motion by Councilperson Gardner to accept the extension, seconded by Councilperson Carey, the vote went as follows:  
CARRIED            Ayes: 5       Falk, Mayer, Gardner, Marcellus, Carey  
                    Nays: 0

### **Close Public Hearing**

Upon motion by Councilperson Mayer to close the public hearing at 7:57PM, without further discussion, seconded by Councilperson Gardner, the vote was unanimous.

**Local Law # 1 of 2019**

**Local Law A Moratorium Intended to Temporarily Prohibit the Creation or Siting of Large Scale Solar Power Installations within the Town of Lima for a Period of 3 Months.**

Attorney Campbell indicated the proposed moratorium is a type 2 action and does not require further action under SEQR. Upon motion by Councilperson Mayer to pass above local law, seconded by Councilperson Gardner, the vote was as follows:

CARRIED              Ayes: 5 Falk, Mayer, Gardner, Marcellus, Carey  
                          Nays: 0

Upon Motion by Councilperson Gardner to adjourn at 8:15 P.M., seconded by Councilperson Carey, the vote was unanimous

Respectfully Submitted by:

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Jennifer Heim, CMC/RMC  
Town Clerk