

**Town of Malone
Regular Board Meeting
January 24, 2018**

A Regular Meeting of the Town of Malone was held Wednesday, January 24, 2018 at the Town Offices, 27 Airport Road, Malone, New York, commencing at 6:00 p.m.

PRESENT: Supervisor Andrea Stewart
Deputy Supervisor Terry Maguire
Councilor Louise Taylor
Councilor Ed Lockwood

ABSENT: Councilor Candy Gadway (via teleconference)

ALSO PRESENT: Deborah Hutchins, Town Clerk
Denice Hudson, Budget Officer
Bruce Mallette, Superintendent of Highways
Bruce Burditt, Airport Service Worker
Josh Davis, The Malone Telegram
Mike Fournier, FARM
H. Bruce Russell, Bellmont
Stephen Dufort, Malone
Jack Sullivan, Malone
Gerald Duffy, Malone
Lars Tennyson, Malone
Douglas & Lori Witherell, Potsdam
Sue & Ernie Wood, Potsdam
Luke Martin, Potsdam
Anne Britton, Brandon
Russ Kinyon, Franklin County
Dolores Rice, Dickinson Center
Ralph Child, Malone
Douglas Mallette, Chateaugay
Henry Gonyea, Malone
Judith Gonyea, Malone
Diane Hellman, Malone
Calvin Martin, Malone
Joe Riccio, Village of Malone
Mary Jane Toomey, Potsdam
Justis Martin, Moira
Kelly Pelkey, Hopkinton
Don Bilow, Chateaugay
Kirby Selkirk, Chateaugay
Bob O'Connor, Chateaugay

Presentation on Solar Article 10 by Gary Abraham, Attorney

Supervisor Stewart introduced Gary Abraham, Attorney from Rochester, who was present to explain the Solar Article 10 process.

Attorney explained that he is an environmental attorney from Cattaraugus County and currently involved in other Article 10 projects which are all wind farms except for this project which is a solar project. He further explained the Article 10 process is something that takes away from towns the ability to deny or permit energy projects over 24 megawatts (this project is 150 megawatts). Article 10 does state that the town's local law must be applied by the State Citing Board that is empaneled by the Governor to make the Article 10 decision. The Article 10 process is about a two-year process which includes a ***pre-application*** phase (public information plan followed by a preliminary scoping statement). Then there is an ***application phase*** that includes discovery (interrogatories) where questions can be asked back and forth about basis on issues such as expert analysis and science for back up. This begins the 12-month period and within this period the State Citing Board must make a final decision on the application. In the meantime there are hearing examiners that sit and listen over the course of several days and once all the expert reports have been submitted, there is an evidentiary hearing presided over by Hearing Examiners (not the Citing Board). This is similar to a regular trial with examining and cross examining. The Hearing Examiners then draft a recommended

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decision (and sets of briefs) which goes to the Citing Board. The Citing Board will then decide if they will adopt, modify or accept the recommended decision. They will then approve or disapprove the project (usually an approval with conditions).

Attorney Abraham further explained the problem with Article 10 is that one of the standards under this article is whether the project would make a beneficial addition to the state's energy goals. The state's goals do currently include having 50% renewables by 2030 (which is nearly impossible) so they will promote as many renewable projects as they can. The Town does still have legislative power to protect itself from unwanted industrial project like this one. Discussion was held on the Cassadaga Wind Project case which included towns involved changing their local laws during the course of the proceeding.

At this time Supervisor Stewart stated that there are several neighboring Towns present and opened the floor to address questions to Mr. Abraham.

Anne Britton (Brandon resident) stated the importance of the public of being able to go to the NYS site under Article 10 and put in comments. Mr. Abraham also stated this is an important point and everything that has been submitted on the project is available for review. The public can also click on a tab to obtain "party status" and everything that gets submitted on the case will be emailed to those with this status. He also stated that another level is "intervener status" and the Town will want to do this status to intervene in the Article 10 process to bring its concerns. In this case Article 10 requires the project sponsor to put up a fund to defray the costs of experts and attorneys. There is a pre-application intervener fund and a post-application intervener fund. Intervener funds are limited for citizens groups because the law states that at least 50% of the funds must go to municipal stakeholders and they have been giving 75% which leaves little remaining.

A Town of Hopkinton resident spoke on setbacks relative to the Northridge Wind Project. Mr. Abraham informed her that it is more effective to have a reasonable conservative noise limit than a distance setback given that a noise limit will create the setback. Some further discussion was held on the noise limit (decibal requirement) and setbacks.

Mike Fournier (representing FARM) asked about PVG (property value guarantee) relative to Malone's case. If the project is approved, can we make the company set aside funds so that surrounding properties can be bought out at pre-solar value in order to maintain property value for those residents that choose to leave due to this project. Mr. Abraham stated that this could be negotiated privately with the project sponsor. Discussion was held on the possibility or feasibility of making this a Town law. This would not be considered a public health and safety standard but monetary and it is illegal for private citizens to waive the law. (For example as a public health matter, one could not say they are okay with a 45 decibal noise level and the prospect of chronic sleeplessness or serious health effects if given money.)

Calvin Martin stated that the community will need to work with the Town Board and Mr. Abraham to write the law; it is not just the responsibility of the attorney but a collaborative effort.

Ralph Child (Malone resident) brought up the topic of soil values as determined by the Commissioner of Agriculture & Markets and what bearing this has on the project. Mr. Abraham responded that it has a lot of weight as Agriculture and Markets is a required party in an Article 10 proceeding. He then referred to the Cassadaga Wind Project where it was determined that agricultural soils are a state resource which is protected.

Mike Fournier (representing FARM) spoke about the volume of electricity being generated by the project would be more than the current electrical grid being able to handle. Mr. Abraham did state the wind farms in New York have become concentrated in the North Country and there is not the transmission capacity to get the electricity to the load centers where needed. The project does have to make a net beneficial contribution to the State's energy goals. An expert would be needed to address this and testify; the burden of proof is on the solar company.

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Calvin Martin referred to the Cassadaga Wind Project relative to transmission capacity and asked why it was approved. Mr. Abraham stated this issue was not raised in this case and no expert was brought in. He also stated he would be bringing an energy systems analyst for the Malone project.

Stephen Dufort (Malone resident) then stated he is not seeing that there is any benefit from this project to Malone. He then asked questions about provisions on solar company transfers, remediation, etc. Mr. Abraham confirmed these areas will be addressed.

Brief discussion was held on any possible Board disagreement with regard to the project proposed laws and also on legalities with regard to taxing the project.

EXECUTIVE SESSION:

RESOLUTION 26-2018

On a motion of Councilor Lockwood, seconded by Councilor Taylor, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor
Nays 0

Resolved to enter in to executive session at 6:55 p.m. for discussion in accordance with and as per Section 108 of the Opening Meetings Law for Attorney/Client Privilege.

RESOLUTION 27-2018

On a motion of Councilor Lockwood, seconded by Deputy Supervisor Maguire, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor
Nays 0

Resolved to enter back in to regular session at 7:40 p.m.

MINUTES:

Approval of minutes from the January 3, 2018 Organizational Board Meeting and Regular Meeting were tabled due to not being able to meet a quorum at this time.

REPORTS:

RESOLUTION 28-2018

On a motion of Councilor Lockwood, seconded by Councilor Taylor, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor
Nays 0

Resolved to approve the reports for the Justice Court – 12/2017, Justices Gardner and Robert – 12/2017, Supervisor’s Report – 12/2017 and Code Officer Report – 12/2017.

OLD BUSINESS:

RESOLUTION 29-2018 – Mats for Transient Aircraft Apron Rehab Project

On a motion of Councilor Taylor, seconded by Deputy Supervisor Maguire, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor
Nays 0

Resolved to approve the purchase of 12 mats in conjunction with the completion of the Transient Aircraft Apron Rehab Project, for a cost of \$4,686.00, with 5% being paid by the Town.

RESOLUTION 30-2018 – Plow Specs

On a motion of Councilor Lockwood, seconded by Deputy Supervisor Maguire, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor
Nays 0

Resolved to approve and allow Supervisor to sign contract for the purchase of a plow (correspondence previously distributed to Board) to be included in 2019 budget when first payment of 5 year installments will be due.

SUPERVISOR REPORT:

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RESOLUTION 31-2018 – MCF Physicals

On a motion of Deputy Supervisor Maguire, seconded by Councilor Lockwood, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor
Nays 0

Resolved to approve permission for the Supervisor to sign the following MCF Physical (Mark Smith), and add to the Franklin County Self Insurance Plan.

RESOLUTION 32-2018 – 2017 CDBG Microenterprise Grant

On a motion of Councilor Lockwood, seconded by Councilor Taylor, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor
Nays 0

Resolved to approve permission for the Supervisor to sign the 2017 CDBG Microenterprise Grant as presented.

RESOLUTION 33-2018 – RFP for Grant Consultant Services

On a motion of Councilor Lockwood, seconded by Councilor Taylor, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor
Nays 0

Resolved for permission to advertise an RFP for Consultant Services for Grant Administration for the 2017 CDBG Microenterprise Grant with proposals due no later than February 23, 2018.

RESOLUTION 34-2018 – Airport Grant Pre-Application

On a motion of Deputy Supervisor Maguire, seconded by Councilor Lockwood, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor
Nays 0

Resolved to approve permission for the Supervisor to sign the Airport Grant Pre-Application as presented.

RESOLUTION 35-2018 – Easement with Village for EV Unit

On a motion of Councilor Lockwood, seconded by Councilor Taylor, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor
Nays 0

Resolved to approve permission for the Supervisor to sign an easement with the Village of Malone for the EV (Electrical Vehicle) unit.

Supervisor Stewart then reported that Congresswoman Stefanik was in Malone today. She stated they met at the Franklin County EMS building with various officials and then toured the Lower Park Street and Lane Street flood area.

BOARD MEMBER/COMMITTEE ITEMS:

Deputy Supervisor Maguire asked Highway Superintendent Mallette for an update on the garage roof leaks and carpet cleaning. Superintendent Mallette reported that he plans to obtain bids for a new roof and is setting money aside for this project.

SUPERINTENDENT OF HIGHWAYS:

RESOLUTION 36-2018 – Franklin County Highway Dept Assistance Agreement

On a motion of Deputy Supervisor Maguire, seconded by Councilor Lockwood, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor
Nays 0

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Resolved for approval for the Supervisor and Board to sign the Request for County Highway Department Assistance Agreement and approval of the Agreement for the Expenditure of Highway Moneys as presented and explained by Superintendent Mallette.

CORRESPONDENCE:

- From the Pines business – state liquor license renewal.
- From 2017 NYS Grant for Airports – Town of Malone was not selected for T-Hangar Grant.
- From North Country Chamber of Commerce – request for Letter of Support for Safety Grant Funding.
- From National Grid – correspondence on the Street Lighting Audit.
- From NYSEERDA – correspondence state the Town of Malone has completed three high impact actions toward Clean Energy Community designation.
- From Charter Communications – RLTV no longer available on Spectrum TV lineup.
- From Gary Abraham and The Zoghlin Group – documents for consideration of legal services.

RESOLUTION 37-2018 – Gary Abraham/Zoghlin Group Legal Services

On a motion of Councilor Taylor, seconded by Councilor Lockwood, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor
Nays 0

Resolved to approve permission for the Supervisor to sign legal service agreements with Gary Abraham and Zoghlin Group to represent the Town with regard to legalities involving Commercial Solar projects effective January 1, 2018.

- From NYS Department of Transportation – order to remove portion of speed limit in Village of Malone on West Park Street. Superintendent Mallette explained this speed limit change.

NEW BUSINESS:

RESOLUTION 38-2018 – Journal Entries

On a motion of Councilor Lockwood, seconded by Councilor Taylor, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor
Nays 0

Resolved to approve permission for the Budget Officer to make the following journal entries, as per Comptroller notice for December: From A690 Clearinghouse \$9,202.00 to A980 Revenues \$9,202.00 (A2610 court fines & fees).

RESOLUTION 39-2018 – Chamber of Commerce Contract

On a motion of Deputy Supervisor Maguire, seconded by Councilor Lockwood, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor
Nays 0

Resolved to approve permission for the Supervisor to sign the contract with the Chamber of Commerce for \$5,500 as budgeted.

RESOLUTION 40-2018 – Animal Control Contract

On a motion of Councilor Taylor, seconded by Deputy Supervisor Maguire, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor
Nays 0

Resolved to approve permission for the Supervisor to sign the contract with North Country Animal Shelter for dog control for \$18,000 as budgeted.

RESOLUTION 41-2018 – GHD Consulting Services

On a motion of Councilor Lockwood, seconded by Councilor Taylor, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor
Nays 0

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Resolved to approve the draft report and submittal to DEC on behalf of the Town by GHD Consulting Services and for the Supervisor to sign the three year monitoring agreement (as required by DEC) with no increase in cost.

RESOLUTION 42-2018 – Joint Rec Park Commission Board Vacancy

On a motion of Councilor Taylor, seconded by Deputy Supervisor Maguire, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor
Nays 0

Resolved to approve letter of request from Nathan Race to serve on the Joint Rec Park Commission Board to fill the vacancy from the resignation of Malcolm Miner with term to expire 03/01/2022.

RESOLUTION 43-2018 – Town Attorney Letters

On a motion of Deputy Supervisor Maguire, seconded by Councilor Lockwood, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor
Nays 0

Resolved to approve deadline date of February 2, 2018 for receipt of Town Attorney interest letters and to hold a Special Meeting on Monday, February 5, 2018 at 10:00 AM with the intent of going in to Executive Session to discuss personnel matters.

RESOLUTION 44-2018 – 1984 Oshkosh Snowblower-Low-Boy Trade

On a motion of Deputy Supervisor Maguire, seconded by Councilor Taylor, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor
Nays 0

Resolved to approve permission for Highway Superintendent Mallette to trade a Low-Boy for a 1984 Oshkosh Snow blower.

RESOLUTION 45-2018 – Tractor with Sweepster Broom

On a motion of Councilor Lockwood, seconded by Deputy Supervisor Maguire, the following resolution

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor
Nays 0

Resolved to approve permission for the Highway Superintendent to purchase a used Tractor with an industrial Sweepster Broom from the Town of Harrietstown at a cost of \$7,500.00 from the DB Fund.

At this time Councilor Lockwood informed Superintendent Mallette that he needs to develop a master plan for equipment purchases for future budgeting purposes. Supervisor Stewart concurred that there needs to be written plan in place for equipment dispositions and purchases for future planning.

Bruce Burditt – reported that he commends Superintendent Mallette for his work keeping the airport cleared and he has received positive comments from agencies landing here.

RESOLUTION 46-2018 – Temporary Highway Employee

On a motion of Deputy Supervisor Maguire, seconded by Councilor Lockwood, the following resolution was

ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor
Nays 0

Resolved to approve permission for the Highway Superintendent to hire a temporary highway employee (HEO) at a rate of \$18.00 per hour plus overtime. This approval is pending satisfactory details worked out with Franklin County Personnel Office.

BILLS FOR AUDIT & PAYMENT:

RESOLUTION 47-2018

On a motion of Councilor Lockwood, seconded by Councilor Taylor, the following resolution was

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ADOPTED Ayes 4 Stewart, Maguire, Lockwood, Taylor

Nays 0

Resolved that the following bills, having been audited and approved for payment,
Vouchers #11-111:

| | 2017 | 2018 |
|--|----------------------------------|---------------------|
| General Fund (A) – Abstract #1 | \$39,970.68 | \$19,243.64 |
| Part Town General (B) – Abstract #1 | | 394.32 |
| Highway Townwide (DA) – Abstract #1 | 17,368.30 | 3,012.69 |
| Highway Outside (DB) – Abstract #1 | 9,508.14 | |
| Airport Capital Projects (H4) – Abstract #1 | 8,655.22 | |
| Landfill Closure (H7) – Abstract #1 | 2,399.50 | |
| East Side Sewer (GE) – Abstract #1 | | 2,850.72 |
| Trust & Agency (T) – Abstract #3 | 7.34 | 220,191.47 |
| SUB-TOTALS | \$77,849.18 | \$246,518.07 |
| GRAND TOTAL: | \$324,367.25 | |
| | +\$7,500.00 (Voucher 112) | |

ADJOURN:

RESOLUTION 48-2018

With no further business to be brought before the Board and on a motion of Councilor Taylor, seconded by Deputy Supervisor Maguire, the meeting was adjourned at 8:35 p.m. The next Regular Meeting is scheduled for February 14, 2018 at 6:00 p.m.

RESPECTFULLY SUBMITTED,

DEBORAH A. HUTCHINS, TOWN CLERK