

**TOWN OF MALONE
REGULAR MEETING
September 14, 2016**

A regular meeting of the Town Board of the Town of Malone, County of Franklin and the State of New York was held at the Town Offices, 27 Airport Rd., Malone, NY on the 14th day of September, 2016.

PRESENT: Howard Maneely ----- Supervisor
 John Sullivan ----- Deputy Supervisor
 Mary Scharf ----- Councilor
 Louise Taylor ----- Councilor

ABSENT: Ed Lockwood ----- Councilor

RECORDING SECRETARY: Deborah Hutchins, Town Clerk
 Denice Hudson, Budget Officer
 Lillian Anderson-Duffy, Town Attorney

ALSO PRESENT: Despo Baltoumous, Malone Telegram
 Mary Fredenburgh, Malone
 Bruce Burditt, Malone
 Archie McKee, Village of Malone
 Andrea Dumas, Village of Malone
 Joseph Riccio, Malone
 Lynn Fredenburgh, Malone
 Kelsi Musgrove, Malone
 Troy King
 Keri Lane
 Tyra Cayea
 Kevin Malloy, Malone
 Jeanne Whipple, Malone
 Todd Sprague, Malone
 Avery Landry, Malone
 Wayne Miller, Malone
 Brian Langdon, Malone
 Kimberly King, Malone
 Archie McKee, Village of Malone
 James Tucker, Malone
 Marena Reome
 Dan Marlow, Village of Malone
 Jay Perras, Village of Malone
 Angel Reome

CALL TO ORDER: Supervisor Maneely called the regular meeting to order at 6:00 p.m., with a pledge to the flag. Supervisor Maneely welcomed the many students present for this meeting.

APPROVAL OF MINUTES

RESOLUTION 222-2016

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

ADOPTED Ayes 4 Maneely, Scharf, Sullivan, Taylor
 Nays 0

Resolved that the minutes of the August 24, 2016 Regular Meeting be approved.

REPORTS

RESOLUTION 223-2016

On a motion of Deputy Supervisor Sullivan, seconded by Councilor Scharf, the following resolution was

ADOPTED Ayes 4 Maneely, Scharf, Sullivan, Taylor
 Nays 0

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Resolved to accept the following reports for review and filing as written and placed in file: Supervisor's Report – 07/2016 and 08/2016, Justices Gardner and Robert Reports – 08/2016, Town Clerk Report – 08/2016, and Airport Service Worker – 08/2016.

OLD BUSINESS:

Update on SEQR Solar Landfill – all agencies have responded and concur that the Town should act as lead agency. Lillian Anderson-Duffy then explained that she has tried to contact Patrick Cain, the DEC Engineer from Materials Management, without success. The input from DEC Materials Management is still needed even though the DEC SEQR concurrence letter has been received. Mr. McNamara from the landfill monitoring company wrote in some concerns with the project and Supervisor Maneely forwarded that information to Joe Garso, North Woods Engineering for response. Councilor Scharf then stated that she and Councilor Taylor attended the Village Board meeting this week and the question arose why the Town was in charge of this project. Supervisor Maneely explained that the Village owns the property situated in the Town of Malone and the Village operated a landfill there for many years. When some problems arose with the operation of the landfill the Village asked the Town to take it over. The Town took it over and closed it to DEC regulations. All was justified to DEC and the Town received monies for monitoring and providing maintenance to the landfill for 30 years. Lillian Anderson-Duffy further explained that Town of Malone is subject to consent orders issued by the DEC which the Town needs to comply which is the reason the Town must take lead agency status. The Highway Superintendent oversees the landfill and the monitoring company comes up twice a year to do inspections. Lillian Anderson-Duffy stated that this monitoring process began in the early 90's. Archie McKee asked if the project was approved as a single project and now needs to be approved as two. Lillian Anderson-Duffy responded that they never did. A resolution was passed a year ago when the Village approached the Town about the project and it was required that the Village submit a long form environment assessment and go through DEC Materials Management. Nothing more was heard until recently when the project engineer in conjunction with the County submitted the plan and other requirement documents to DEC. When the Village first applied and the Town took lead agency status the DEC send a long letter stating what was required from the Village. When the resolution was passed it incorporated all the conditions in that letter. Supervisor Maneely stated that the Town will hold a Special Meeting to approve as soon as DEC approval is received. Lillian Anderson-Duffy reiterated that the DEC input is absolutely required and we cannot go forward without it.

SUPERVISOR REPORT

RESOLUTION 224-2016

On a motion of Councilor Scharf, seconded by Deputy Supervisor Sullivan, the following resolution was

ADOPTED Ayes 4 Maneely, Scharf, Sullivan, Taylor
Nays 0

Resolved for approval on Water Service application for Ellwood Properties, LLC at 3276 State Route 11.

BOARD MEMBER/COMMITTEE ITEMS

Councilor Scharf stated that a Stefanik staff person called her for endorsement on behalf of the Malone Town Board. Councilor Scharf stated that she refused because as a representative of the community she would not be able to endorse someone on behalf of the Town Board. She further explained that Ms. Stefanik has no valid north country history, is a Washington insider, she wants to defund Planned Parenthood (a vital agency to help north country women), the environment must be protected to help farmers and tourism (despite her claims she had voted against environmental protection), voted against aid for the Sika Virus, she tried to derail the Iran Treaty a year ago, and she wants to privatize Social Security and Medicare (our north county has an aging population). Councilor Scharf stated that she denied support to her because of her concern for our community here and not due to any party loyalty. Deputy Supervisor Sullivan stated he also received a call and agrees with Councilor Scharf.

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Councilor Scharf then introduced the new Chairman for Complete Streets, Wayne Miller. Mr. Miller discussed that NYS DOT has announced a funding round that includes money for building sidewalks. He then stated that he is aware that Supervisor Maneely has had discussion with the DOT relative to a sidewalk project to begin at Aldi and continue to the Walmart intersection. An engineering study has already been completed for this area and there is a tentative price for the project. Complete Streets also feels it would be valuable to have a sidewalk to connect from the playing fields to the industrial park (where health clinics are located). Mr. Miller stated that Complete Streets stands ready to complete the application for the grant process with the Town Board's endorsement for approval to submit the application. He stated that one critical piece needed is a provision for how snow and ice are to be cleared from that sidewalk. The Town does not currently have a sidewalk code that addresses this. The deadline for the application is October 21. Mr. Miller stated that the Town may want to look at the model ordinance for sidewalks that the Complete Streets has presented to the Village which has been reviewed by a lawyer. Mr. Miller stated he can get a digital copy to Lillian Anderson-Duffy for review. Supervisor Maneely stated that he attended training on this today and was informed that the grant process can be submitted as long as stated that the ordinance will be forthcoming. It was also stated that in-kind service can be included as part of the required 20% match.

RESOLUTION 225-2016

On a motion of Councilor Scharf, seconded by Deputy Supervisor Sullivan, the following resolution was

ADOPTED Ayes 4 Maneely, Scharf, Sullivan, Taylor

Nays 0

Resolved to approve Complete Streets to complete the application for the TAP grant for the sidewalk construction between Aldi and Walmart and up to the Creighton Road.

Supervisor Maneely also added that he has seen grocery carts going to the JCEO food pantry so perhaps this would help the application.

Mr. Miller stated that they have the engineering study for the first piece and this grant will fund the engineering study if it is tied with construction. So the engineering study will need to be completed for getting from here to the industrial park.

RESOLUTION 226-2016

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

ADOPTED Ayes 4 Maneely, Scharf, Sullivan, Taylor

Nays 0

Resolved to amend Resolution 214-2016 to state to extend to the IDA Park.

Deputy Supervisor Sullivan stated that he is currently researching something that he will be reporting at the next meeting.

Joe Riccio then addressed the Board regarding the status of the minor hockey contract that the Malone Town Board authorized Howard to sign at the July 28, 2016 meeting. Councilor Scharf stated that there was concern on some of the verbiage. Councilor Scharf stated that she and Councilor Taylor attended the Village Board meeting on Monday of this week to try and learn more on the status of the contract. Councilor Scharf then asked Jay Perras, Malone Minor Hockey, if the contract in current form is the correct one. Mr. Perras stated that he has been in contact with many people involved with the contract and has been working with Kevin Nichols with a goal to get it done by the end of July. The first contract had some language in it referring to Zamboni which is a brand and this was changed over to Olympia which is the correct description. The August 1st copy which the Town has is the second revision. Mr. Perras stated that he took that second revision final to his Board for review. When the Board came back they wanted the verbiage changed from an "Olympia Ice Resurfer" to state "that Malone Minor Hockey will not remove anything from the building without the consent of all the parties involved". Although the Village had approved the second revised version, the Malone Minor Hockey had not approved it. Mr. Perras stated that this is where they stand at this time. Mr. Perras stated that their intention is simply to run the building for the community and not to take any equipment out of the building. Councilor Scharf then read the contract verbiage relative to this section,

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specifically stating “Malone Minor Hockey shall not remove from the arena any fixtures or equipment including the ice resurfacing machine without the consent of the Village of Malone and its Board of Trustees, the Town of Malone and its Board and the Malone Joint Recreation Committee”. Mr. Perras confirmed this is the revision that his Board will not sign. He further stated that the original contract that they have operated on for about eight years now basically states that they will not remove anything from the building including fixtures, etc. Mr. Perras stated that his Board would like certain verbiage referencing the ice resurfacing taken right out and just state that they will not remove “anything”. He stated that certain Board members felt it was worded targeting a specific machine. Mr. Perras stated that if the verbiage can be changed he is ready to sign any time and is authorized to do so. Lillian Anderson-Duffy then asked Councilor Scharf to read the last sentence again referencing this section.

Joe Riccio stated that he felt the newly purchased ice resurfacing machine which both the Town and Village contributed, was the reason for the original language so that the Village and Town, as shareholders, would have some say on this specific piece of equipment.

Lillian Anderson-Duffy then asked Mr. Perras if his Board was objecting (in feeling there was a presumption by including the specific verbiage) that they were going to take away the ice resurfacing machine. Mr. Perras stated that is a great question and it goes back to the fact that the ice resurfacing machine was purchased with community money and funds raised. Mr. Perras stated that they have also put thousands of dollars in to upgrading the compressors as well. He stated that they felt it was a bit of a targeting thing and they would like the blanket that the contents are not to be removed.

Joe Riccio stated that the Village has already signed the contract which includes the specific equipment language as has the Rec Commission. Mr. Riccio stated that is why he is approaching the Town Board to see where they are with this contract. Mr. Perras stated that there has never been an agreement to date that all four parties are satisfied with the contents. Lillian Anderson-Duffy stated that she sees that it seems that Malone Minor Hockey is not getting acknowledgement of contributing to the purchase of this equipment and there lies the problem. Mr. Perras responded that they do not need any acknowledgement. Mr. Perras stated he would like for all to unsign the document, make the verbiage change and sign as soon as possible.

Dan Marlow then addressed the Board and stated Malone Minor Hockey has done an outstanding job at the Civic Center and an important part of this community. He stated that he has also put a lot of time and effort in to this contract to get it to where it is. Mr. Marlow stated that he called Joint Rec prior to this meeting to see if they could send representation. Joint Rec created a special Board to have a special meeting to sign this contract. Mr. Marlow stated that Malone Minor Hockey, Joint Rec, the Village and the Town (by way of Ed Lockwood) sat down and hashed out this contract. The Joint Rec Commission was very concerned about the contract with respect to ownership of the Zamboni. Mr. Marlow then stated that Joint Rec Commission asked him to communicate to the Board tonight that they are not in a position to sign the contract with the specific wording on the equipment taken out.

Councilor Scharf stated that she has been a supporter of this since the beginning and personally feels that having “anything” in there is just an advantage to the Village. Councilor Scharf stated that she would like to see this resolved and be done with so we do not lose community support. Supervisor Maneely stated that the Village does a contract and then sends to the Town to sign but the Town has not really had any input on it. Joe Riccio stated a correction that Ed Lockwood has been heavily involved in these conversations and representing the Town. He was definitely informed and part of the process. Council Taylor then asked Mr. Perras what the issue was with this particular piece of equipment. Mr. Perras stated there has not been much communication in the last few years from the Rec Committee to the Civic Center which has upset both sides. He stated that they don’t want that particular piece of equipment but there is a lot that goes in to ownership and maintenance of the building and equipment. Mr. Perras stated that he needs to go back to his Board at this point before signing the contract. Councilor Scharf stated that the resolution has already been passed for Supervisor Maneely to sign this and would like for him to sign now. Archie

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McKee stated his concern to be sure that all are signing the same contract version. Also, there was a clarification made that the contract and the grant are two separate issues and approval of the contract has nothing to do with the grant. Joe Riccio confirmed the grant application work is in process at this time. Supervisor Maneely also stated the Telegram reported incorrectly that the Village paid Malone Minor Hockey \$42,000 per year but the Town should have been included in that as well as they contribute 40% of that. Supervisor Maneely did then sign the same contract that has already been signed by the Village and the Rec Commission.

Councilor Scharf also brought up the subject of the grant which was discussed at the Village meeting earlier this week that she and Councilor Taylor attended. Councilor Scharf stated that she has spoken to the Town Budget Officer about the Town's 40% contribution to the Village while waiting for the grant process. Denice Hudson did reach out to the State Comptroller and Councilor Scharf stated that he responded stating that he recommends the Town not complete such a transaction as one municipality cannot lend to another which is in essence what this transaction would be. There cannot be a written guarantee of payback, therefore, the Village can potentially not pay back the Town. Councilor Scharf stated that Trustee Dumas had questioned if repayment was necessary at the last Village meeting. The Comptroller did, however, state that the Town could upfront their payment for next year. Ms. Hudson stated this would be reducing our budgetary amount for next year for the Joint Rec. Ms. Hudson also stated that the Town would have to do a budgetary modification to this year's budget in order for those funds to go to the Village. Mr. Riccio stated that we have time to explore our options in collaborating to work together.

SUPERINTENDENT OF HIGHWAYS

CORRESPONDENCE:

From Louise Laberge – notification to the Town of intent to retire effective 12/31/2016.

From Don Marlowe, Town resident, regarding dissatisfaction with Teboville/Shova Road construction. Supervisor Maneely stated that Superintendent Mallette has addressed Mr. Marlowe's concerns.

NEW BUSINESS:

RESOLUTION 227-2016

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

ADOPTED Ayes 4 Maneely, Scharf, Sullivan, Taylor
Nays 0

Resolved that permission be granted for Budget Officer to make the following journal entries, as per the Comptroller notice for July: From A690 Clearinghouse \$7,485.00 to A980 Revenues \$7,485.00 (A2610 court fines & fees).

RESOLUTION 228-2016

On a motion of Deputy Supervisor Sullivan, seconded by Councilor Scharf, the following resolution was

ADOPTED Ayes 4 Maneely, Scharf, Sullivan, Taylor
Nays 0

Resolved that permission be granted for Budget Officer to transfer \$26,930.88 from A1990.4 Contingency to A1220.1 Personal Services (Accumulated Sick Leave and Vacation Buyback).

RESOLUTION 229-2016

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

ADOPTED Ayes 4 Maneely, Scharf, Sullivan, Taylor
Nays 0

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Resolved that permission be granted for Jean Marlow, Amy Hewitt, Nancy Legacy, Lee Mulverhill, Malcolm Miner and Bob Crossman to attend the 2016 Local Government Conference in October with all expenses by the Town.

BILLS FOR AUDIT & PAYMENT:

RESOLUTION 230-2016

On a motion by Councilor Scharf, seconded by Deputy Supervisor Sullivan, the following resolution was

ADOPTED Ayes 4 Maneely, Scharf, Sullivan, Taylor
Nays 0

Resolved that the following bills, having been audited and approved for payment, Vouchers #764-804

General Fund (A) – Abstract #15	\$ 22,169.75
Part Town General (B) – Abstract #14	150.00
Highway Townwide (DB) – Abstract #17	8,546.20
East Side Water (FE) – Abstract #4	10,615.90
Trust & Agency (T) – Abstract #32	1,473.87
GRAND TOTAL:	\$ 42,955.72

Mary Fredenburg, Malone resident, then asked to address the Board. Ms. Fredenburg stated that she has lived in the Town of Malone for about 10-12 years and has heard rumors about the animal shelter. She stated that she has now come to the point where she has witnessed 3 or 4 examples of how Ms. Morton is mistreating people whom she is supposed to be helping. She stated that Ms. Morton does very selective enforcement. Ms. Fredenburg indicated that Ms. Morton received a call about some cattle in the road on Route 51 – outside of Chateaugay. She understands the state police told someone to call Ms. Morton about this situation outside of Chateaugay. Ms. Fredenburg is questioning why the state police would tell people to call Ms. Morton if she does not have a contract at that location. Ms. Fredenburg stated that another person present at this meeting had his dog picked up in Churubusco by Ms. Morton and was then told it would cost him \$200 to get his dog out. He informed Ms. Morton that he could not pay that as he was a student and she ended up settling for \$50 to release the dog.

Supervisor Maneely spoke to clarify that the Town contracts with the animal shelter for the Town of Malone only for dogs. Ms. Fredenburg then explained that she is here to speak about Jeanne Whipple's dog. Her dog was found and brought to the police station and they brought it to Shirley Morton. Ms. Fredenburg stated that Ms. Whipple should have been able to pay \$5 to get her dog back. She further indicated that the dog was 16 years old and blind and that Ms. Whipple is a senior citizen on a fixed income. She also stated that Ms. Whipple has been threatened with the Code Officer, the DA and the troopers and is not able to find out any information on the status of her dog. Ms. Fredenburg expressed her concern that the Town should not renew their contract with Ms. Morton due to these circumstances and more.

Kimberly King then addressed the Board and stated that she owns a pet rescue at her home in Whippleville. She stated she is also the second cousin to the gentleman who originally owned the land where Ms. Morton is. She indicated the land was originally given to the Franklin County ASPCA and was then taken out of their hands and put in to Ms. Morton's directly. She discussed other instances that she is aware of where dogs were taken and charged excessively to be released. She also indicated that Ms. Whipple was threatened by Bob Crossman, Town of Malone Code Officer. She then stated that Ms. Morton is using Mr. Crossman as a personal code enforcer. Ms. King then expressed her discontent with Mr. Crossman relative to her property and the new town junk law. At this time Supervisor Maneely asked Ms. King if she would be available to sit and discuss this situation with Mr. Crossman. They scheduled to meet next Wednesday, September 21st at 9:00 AM. Supervisor Maneely stated that he would like for all involved to sit and meet with Mr. Crossman on these allegations as this is the first time he has heard anything.

Ms. Whipple asked how the Town contracts with Ms. Morton to be dog warden when she also runs a private business. Supervisor Maneely stated that her private business is not the Town's concern. At this time Jim Tucker addressed the Board. Mr. Tucker requested more

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information on the details of the contract between the Town and Ms. Morton. At this time the Town Clerk retrieved copies of the contract. Questions were brought up about a fee schedule which is not part of the contract. Lillian Anderson-Duffy then explained that Ms. Morton has to comply with the NYS Agriculture and Markets law. Councilor Scharf stated that the Town is required by law to have a dog control officer and Ms. Morton is the only company that ever submits a bid. It was stated that the current annual contract expires at the end of this year. Discussion was held on the regulations of the dog control officer's facility which are overseen by the NYS Dept. of Agriculture and Markets. Lillian Anderson-Duffy stated that she will further review the specific Ag and Markets law tomorrow. Ms. Fredenburg questioned if Ms. Morton is required an audit since if she is a non-profit organization. Lillian Anderson-Duffy reviewed some information from the Ag and Markets law and did confirm that the dog control must provide a written accounting of monies received and expended along with annual and quarterly reports. Ms. Fredenburg stated that this does not constitute an audit of her records. Ms. King and Mr. Tucker requested copies of Ms. Morton's contract with the Town which they did receive. Supervisor Maneely reiterated to Ms. Whipple that he has recommended to her to get an attorney. Ms. Whipple stated that she has written a letter demanding her dog be released and it was delivered to Ms. Morton by Ms. King. Councilor Scharf stated that the Town will again be advertising in December for bids.

EXECUTIVE SESSION:

RESOLUTION 231-2016

On a motion of Supervisor Maneely, seconded by Councilor Scharf, the following resolution was

ADOPTED Ayes 4 – Maneely, Scharf, Sullivan, Taylor
Nays 0

Resolved that the Town Board enter into Executive Session at 7:25 p.m. to discuss the employment history of, and matters leading to, the employment, discipline, suspension, dismissal or removal of a particular person with the Town Board, Town Attorney, Town Clerk and the Budget Officer.

RESOLUTION 232-2016

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

ADOPTED Ayes 4 - Maneely, Scharf, Sullivan, Taylor
Nays 0

Resolved that the Town Board return to Regular Session at 7:35 p.m.

RESOLUTION 233-2016

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

ADOPTED Ayes 4 – Maneely, Scharf, Sullivan, Taylor
Nays 0

Resolved to approve that Andrea Stewart be hired as an independent contractor at a rate of \$40.00/Hour to assist with the budget process as needed.

ADJOURN:

RESOLUTION 234-2016

With no further business, on a motion by Councilor Scharf, seconded by Deputy Supervisor Sullivan, the meeting was adjourned at 7:45 PM. The next regular meeting is scheduled for September 28, 2016 at 6:00 PM.

RESPECTFULLY SUBMITTED,

DEBORAH A. HUTCHINS, TOWN CLERK