

**MINUTES – TOWN OF ALLEGANY  
PUBLIC HEARING & REGULAR BOARD MEETING  
TUESDAY, MARCH 14, 2023 7:00 PM TOWN HALL**

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**PRESENT:**

Supervisor Higgins	Town Clerk D. Pinney
Councilwoman Martin	Councilman Maguire
Councilman Cooper	
Attorney Tuttle	Hwy. Superintendent Moshier
Comptroller Piccioli	

**ABSENT:**

Councilman Nazemetz

**ALSO PRESENT:**

Stephanie Guthrie, Sarah Swinko (STW), Chris Baker (Catt. Cty. Emergency Services/APD), Aiden Gardiner (student ALCSD) & Ashlyn Collins (student ALCSD)

**7:00 PM**

**Public Hearing – To discuss the need of 1 or 2 Town Justices**

1. Supervisor Higgins opens the Public Hearing
2. There were no comments from the public.

**#51-MOTION TO CLOSE THE PUBLIC HEARING**

Motion by Supervisor Higgins to close the public hearing at 7:02 pm. 2<sup>nd</sup> by Councilwoman Martin. Higgins-aye, Martin- aye, Cooper-aye, Maguire-aye, Nazemetz-absent. CARRIED

**7:10 PM**

**Public Hearing – Tax Cap Override**

1. Supervisor Higgins opened the Public Hearing for public comment and stated due to the high level of inflation we are planning to pass this law in case we do need to go above the State mandated 2% maximum increase in the tax levy. This is different than our budget which is not regulated by the State. This is just for the tax levy increase. Our goal is to minimize the increase of the tax levy. We do not want to go over the 2%. This law would allow us to go over if we need to. Given the fact that we have such high inflation right now we feel that this law is prudent. We just started our budget process & we don't know where we are going to be as this plays out. This is just for us to be ready.
2. There were no comments from the public.

**#52-MOTION TO CLOSE THE PUBLIC HEARING**

Motion by Supervisor Higgins to close the public hearing at 7:12 pm. 2<sup>nd</sup> by Councilman Maguire. Higgins-aye, Martin- aye, Cooper-aye, Maguire-aye, Nazemetz-absent. CARRIED

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**Salute to the Flag opened the meeting**

**#53-MOTION TO ACCEPT MINUTES FROM THE FEBRUARY 14, 2023 PUBLIC HEARING & REGULAR BOARD MEETING**

Motion by Councilman Maguire to accept the minutes from the February 14, 2023 Public Hearing & Regular Board Meeting as written. 2<sup>nd</sup> by Councilman Cooper. Higgins-aye, Martin- aye, Cooper-aye, Maguire-aye, Nazemetz- absent. CARRIED

• **AUDITED CLAIMS**

• Gen A	\$ 803,914.50
• Gen B	\$ 2,317.76
• Hwy DA	\$ 27,472.52
• Hwy DB	\$ 4,088.88
• Spec Dist.	\$ 3,636.38

**MONTHLY REPORTS**

Town Clerk  
Building & Zoning Depts.  
Highway Dept.  
Rec. Dept.  
Cemetery  
Assessor

- All Board members have received & reviewed the income & expense reports for February 2023.

Town Justice D. Porter – report for January 2023 – amount collected: \$ 19,085.0.

**CORRESPONDENCE**

1. Senator Borello - Receipt of Town Resolution to oppose Gov. Hochul ban on fossil fuel use
2. S. Nine Mile Speed Study update from Catt. Co.
3. NYS Department of Public Service (DPS) to hold Virtual Hearings on March 21, 2023 regarding the Comprehensive Broadband Connectivity Act of 2021\* ConnectALL Invitation to Internet and Digital Equity Regional Listening Session for WNY
4. Hempstead Super Hochul Housing Plan Ltr 3-7-23
5. Catt Co Letter about State Medicaid proposed changes
6. Broadband Public comment invitation

**NEW BUSINESS**

1. Chris Baker – Director of Cattaraugus County Emergency Services & Allegany Police Chief Introduction & summary of services.
  - Mr. Baker informed the Board to contact him in the event of an emergency & he would handle all coordination of the event.
  - Mr. Baker also discussed the need for the Town to update its Emergency Plan (it was last done in 2006). He & his staff at the County will direct & assist with this process.

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- Mr. Baker discussed the Town's desire for acquiring AED's for multiple locations within the Town. He has provided pricing, grant information, training opportunities & requirements to the Town to work towards these goals.
  - Mr. Baker also touched base on his role as police chief & some goals he has for the Town & its relationship with the Police Dept.
2. Sarah Swinko (STW Community Sustainability Planner) gave the Town Board a Climate Smart Community presentation. The Town would need to pass a resolution to become a Climate Smart Community to qualify the Town for grants ranging from Energy related to Comprehensive Plan grants & more.
  3. Declare Town of Allegany Lead Agency Town of Allegany Zoning Ordinance III Escrow Amendment

**#54-MOTION TO DECLARE TOWN OF ALLEGANY LEAD AGENCY FOR ZONING**

Motion by Supervisor Higgins to declare the Town of Allegany Lead Agency for Zoning Ordinance & Escrow Amendment as there are no other involved agencies. 2<sup>nd</sup> by Councilwoman Martin. Higgins-aye, Martin- aye, Cooper-aye, Maguire-aye, Nazemetz- absent. CARRIED

4. Review & Approve SEQR for Town of Allegany Zoning Ordinance III Escrow Amendment

**#55-MOTION TO APPROVE SEQR FOR ZONING ORDINANCE III AMENDMENT**

Motion by Supervisor Higgins to review & approve the Town of Allegany Zoning Ordinance III & Escrow Amendment, Type 1 action with NegDec. 2<sup>nd</sup> by Councilman Cooper. Higgins-aye, Martin- aye, Cooper-aye, Maguire-aye, Nazemetz- absent. CARRIED

5. Set Public Hearing to Amend the Town of Allegany Zoning III Escrow Amendment – refer to Catt County for review

**#56- MOTION TO SET A PUBLIC HEARING TO AMEND ZONING ORDINANCE**

Motion by Councilman Maguire to set a public hearing on April 11, 2023 at 7:00pm to discuss amendment of the Town of Allegany Zoning III Escrow Ordinance & refer to Catt County for review. 2<sup>nd</sup> by Councilman Cooper. Higgins-aye, Martin- aye, Cooper-aye, Maguire-aye, Nazemetz- absent. CARRIED

6. Declare Town of Allegany Lead Agency Town of Allegany Solar Law Amendment

**#57-MOTION TO DECLARE TOWN OF ALLEGANY LEAD AGENCY FOR SOLAR LAW**

Motion by Supervisor Higgins to declare the Town of Allegany Lead Agency for Solar Law Amendment as there are no other involved agencies. 2<sup>nd</sup> by Councilman Maguire. Higgins-aye, Martin- aye, Cooper-aye, Maguire-aye, Nazemetz- absent. CARRIED

7. Review & Approve SEQR for Town of Allegany Solar Law Amendment

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**#58-MOTION TO APPROVE SEQR FOR SOLAR LAW AMENDMENT**

Motion by Supervisor Higgins to review & approve the Town of Allegany Solar Law Amendment, Type 1 action with NegDec. 2<sup>nd</sup> by Councilwoman Martin. Higgins-aye, Martin- aye, Cooper-aye, Maguire-aye, Nazemetz- absent. CARRIED

8. Set Public Hearing for Town of Allegany Solar Law – refer to Catt County for review

**#59- MOTION TO SET A PUBLIC HEARING TO AMEND SOLAR LAW**

Motion by Councilwoman Martin to set a public hearing on April 11, 2023 at 7:10pm to discuss amendment of the Town of Allegany Solar Energy Local Law & refer to Catt County for review. 2<sup>nd</sup> by Supervisor Higgins. Higgins-aye, Martin- aye, Cooper-aye, Maguire-aye, Nazemetz- absent. CARRIED

9. Cattaraugus County Mosquito spraying interest form

**#60-MOTION TO SIGN COUNTY MOSQUITO SPRAYING CONTRACT**

Motion by Councilman Maguire to allow Supervisor Higgins to sign agreeing to participate in the annual Cattaraugus County aerial mosquito spraying program for 2023. 2<sup>nd</sup> by Councilwoman Martin. Higgins-aye, Martin- aye, Cooper-aye, Maguire-aye, Nazemetz- absent. CARRIED

10. Accept 2022 Justice Court Audit

**#61-MOTION TO ACCEPT THE ANNUAL JUSTICE COURT AUDIT REPORT FOR 2022**

Motion by Councilwoman Martin to accept the annual Justice Court Fund Audit for the years 2022 as submitted and authorize to submit to the State on behalf of the Town by Comptroller Piccioli. 2<sup>nd</sup> by Councilman Maguire. Higgins-aye, Martin- aye, Cooper-aye, Maguire-aye, Nazemetz- absent. CARRIED

**OLD BUSINESS**

1. Resolution to Abolish One Elected Town Justice (subject to permissive referendum)

**#62 -RESOLUTION TO ABOLISH ONE ELECTED TOWN JUSTICE, SUBJECT TO PERMISSIVE REFERENDUM**

Motion by Supervisor Higgins for resolution to abolish one elected Town Justice, subject to Permissive Referendum. 2<sup>nd</sup> by Councilman Cooper.

**WHEREAS**, the Town of Allegany, County of Cattaraugus and State of New York, currently has two (2) elected Town Justices; and

**WHEREAS**, the Town Board for the Town of Allegany has determined that it would be in the best interests of the Town of Allegany to reduce the number of Town Justices to one (1); and

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**WHEREAS**, the term of office of one of the elected Town Justices will expire on December 31, 2023, and

**NOW, therefore be it**

**RESOLVED**, that pursuant to the provisions of New York Town Law § 60-a(2), the Town of Allegany hereby reduces the number of elected Town Justices to one (1), subject to permissive referendum, with the Town Justice position having an elected term of office expiring on December 31, 2023 being eliminated; and be it further

**RESOLVED**, that this Resolution is subject to permissive referendum as provided by New York Town Law Article 7, § 90-94; and be it further

**RESOLVED**, that the Town Clerk is hereby authorized and directed to publish notice of this resolution in the official newspaper of the Town, and post said notice on the official signboard of the Town, within ten (10) days of the adoption of this Resolution; and be it further

**RESOLVED**, that this resolution shall take effect thirty (30) days after adoption, or until approved by the affirmative vote of a majority of the qualified electors of the Town of Allegany, voting on such proposition, if within thirty (30) days after its adoption there be filed with the town clerk a petition signed by electors of the Town qualified to vote in number equal to at least five (5) per centum of the total vote cast for governor in the town at the last general election, but shall not be less than one hundred (100) in a town of the first class.

**THIS RESOLUTION** is hereby adopted by a majority vote of the Town of Allegany Town Board at a meeting held on the 14th day of March, 2023, as follows:

Higgins-aye, Martin- aye, Cooper-aye, Maguire-aye, Nazemetz- absent. CARRIED

**OTHER BUSINESS**

1. Adopt Tax Cap override (Local Law #2 of 2023) (to address rising operation costs within the Town)

**Motion # 63 of 2023**

Motion by: Supervisor Higgins 2<sup>nd</sup> by: Councilman Maguire

**Local Law No 2 of the year 2023**

Town of Allegany, County of Cattaraugus

**A local law to override the tax levy limit established in General Municipal Law 3-c**

**Be it enacted by the town board of the town of Allegany as follows:**

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**Section 1. Legislative Intent**

It is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the Town of Allegany pursuant to General Municipal Law § 3-c, and to allow the Town of Allegany to adopt a budget for the fiscal year 2024 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law § 3-c.

**Section 2. Authority**

This local law is adopted pursuant to subdivision 5 of General Municipal Law § 3-c, which expressly authorizes the town board to override the tax cap by the adoption of a local law approved by vote of sixty percent (60%) of the town board.

**Section 3. Tax Levy Limit Override**

The Town Board of the Town of Allegany, County of Cattaraugus is hereby authorized to adopt a budget for the fiscal year 2024 that requires a real property tax levy in excess of the amount otherwise proscribed in General Municipal Law, §3-c.

**Section 4. Severability.**

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

**Section 5. Effective date.**

This local law shall take effect immediately upon filing with the Secretary of State.

Higgins-aye, Martin- absent, Cooper-aye, Maguire-aye, Nazemetz- absent. CARRIED:

2. Purchase a Lawn Mower for the Cemetery

**#64- MOTION TO PURCHASE CEMETERY LAWNMOWER**

Motion by Supervisor Higgins to purchase a John Deere Z994R Diesel Commercial ZTrack lawnmower at a cost of \$10,486.26 after (\$8,100.00 trade in) using state contract pricing. 2<sup>nd</sup> by Councilwoman Martin. Higgins-aye, Martin- aye, Cooper-aye, Maguire- aye, Nazemetz- absent. CARRIED

3. The Board discussed CD's & rising rates

**#65- MOTION TO SCHEDULE BOARD MEETING**

Motion by Supervisor Higgins to schedule a Board meeting on 3/28/2023 at 4:00 pm to approve CD purchases. 2<sup>nd</sup> by Councilwoman Martin. Higgins-aye, Martin- aye, Cooper-aye, Maguire- aye, Nazemetz- absent. CARRIED

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4. The Board discussed shared service for the Dog Kennel & interest in building a larger kennel
5. The Board discussed 5-year plan for Town improvements
6. The Board discussed the need for an updated Comprehensive Plan

**COMMITTEE REPORTS**

- **Building/Grounds & Safety – Kathy Martin & Mike Higgins**
- Hazzard Mitigation Plan meeting with Catt. County 3/21/23
- AED's – Senior Center, Rec Center & other dept's – Working with Emergency Services
- Carol Hare has requested the bathrooms & kitchen to be painted at the Senior Center – The Highway Dept. will do it when they have down time
- **Highway – Mike Higgins & Craig Maguire**
- One truck being repaired another still waiting for delivery
- The generator will be hooked up soon
- **Parks & Cemetery – Kathy Martin & Alex Nazemetz**
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- **Personnel – Andy Cooper & Mike Higgins**
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- **Recreation – Kathy Martin & Andy Cooper**
- Kathy will be meeting with Karen next week
- **Technology – Craig Maguire & Andy Cooper**
- Craig is working with Databranch planning IT needs & getting quote for camera system at Court & Recreation next week
- **Union Negotiation – Mike Higgins & Kathy Martin**
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- **Water/Sewer – Mike Higgins & Craig Maguire**
- Wendy discussed & shared with the Board the Application for Permission of State Comptroller to establish a Sewer District



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**FROM THE FLOOR – none**

- Councilwoman Martin requested an Executive Session for personnel that was originally slated on the agenda for Legal purposes

**Executive session – personnel**

**#66-MOTION TO ADJOURN TO EXECUTIVE SESSION FOR PERSONNEL REASONS.**

Motion by Supervisor Higgins to adjourn to executive session at 8:28 pm for personnel reasons. 2<sup>nd</sup> by Councilwoman Martin. Higgins-aye, Martin- aye, Cooper-aye, Maguire- aye, Nazemetz- absent. CARRIED

**#67- MOTION TO RETURN TO REGULAR SESSION.**

Motion by Supervisor Higgins to return to regular session at 8:30 pm. 2<sup>nd</sup> by Councilman Cooper. Higgins-aye, Martin- aye, Cooper-aye, Maguire- aye, Nazemetz- absent. CARRIED

**#68- MOTION TO ADJOURN THE MEETING**

Motion by Councilwoman Martin to adjourn the entire meeting at 8:31 pm. 2<sup>nd</sup> by Councilman Maguire. Higgins-aye, Martin- aye, Cooper-aye, Maguire- aye, Nazemetz- absent. CARRIED

Respectfully submitted,

Deryle L. Pinney, Town Clerk  
3/14/2023