

The regular meeting of the Villenova Town Board, held Sept. 11, 2019 at 1094 Butcher Road, South Dayton NY was called to order by Deputy Supervisor Park at 7:00PM after the Pledge to the Flag.

Present: **Yvonne Park** - **Deputy Supervisor**
 Sarah LoManto - **Councilmember**
 Keith Butcher - **Councilmember**
 Nathan Palmer - **Councilmember**

Others Present:

Chuck Luce - **Highway Superintendent**
 Donald Michalak - **Town Attorney**
 See attached sign in sheet at the end of the minutes

Recording Secretary:

Julie Goodway - **Town Clerk**

***A MOTION was made by Nathan Palmer, seconded by Keith Butcher WHEREAS minutes of the August 14, 2019 regular meeting and the August 29, 2019 Special Meeting, be accepted as presented.

Adopted: **Park** - **aye**
 LoManto - **aye**
 Butcher - **aye**
 Palmer - **aye**

REPORTS:

Town Clerk – received and disbursed a total of \$980.25, presenting a check to the Deputy Supervisor in the amount of \$343.39 for the portion of town fees collected. Read correspondence from the Villenova Burial Association and the Villenova Grange, copies of which will be on file with the clerk.

Justice – received and disbursed a total of \$310.00, presenting a check to the Deputy Supervisor 9/2/19.

Assessor – attended a meeting in Mayville, delivered the school roll to Mayville.

Code Enforcement – no report given, however he is attending the state conference this week.

Highway Superintendent – replaced 2 culverts on Milestrip Road; 1 on Butcher road; patching when weather permits; finished Zahm Road, South Hill and will move onto North Hill.

Deputy Supervisor – presented the board with the financial statement as prepared by Bahgat & Laurito Bahgat. Paid bills approved at previous meeting and submitted prepays for this meeting, payroll is complete. At the special meeting of the board on August 29, 2019 interviews for the position of Assessor were conducted;

***A MOTION was made by Yvonne Park, seconded by Keith Butcher to appoint Jeanne Ebersole Assessor, effective October 01, 2019. This appointment is a 6 year term.

Adopted: **Park** - **aye**
 LoManto - **aye**
 Butcher - **aye**
 Palmer - **aye**

***A MOTION was made by Keith Butcher, seconded by Nathan Palmer WHEREAS windows 7 support will end December 31, 2019 thereby creating a need for new town computers, the Villenova Town Board does HEREBY authorize Town Clerk Goodway to seek two quotes to update the computers.

Adopted: **Park** - **aye**
 LoManto - **aye**
 Butcher - **aye**
 Palmer - **aye**

Deputy Supervisor Park read the rules and regulations for public hearings/meetings to the public in attendance.

***A MOTION was made by Yvonne Park, seconded by Nathan Palmer to close the regular meeting of the Villenova Board at 7:10PM for the purpose of conducting a public hearing regarding a proposed law to abolish the town planning board.

Don Michalak – Town Attorney made the following statement to open the public hearing;

The New York Town Law allows but does not require that a town have a planning board. The authority of a town board to appoint a planning board is entirely permissive and optional. A town board which has established a planning board may thereafter abolish such planning board at any time. A town board has no obligation to fill the vacancies on the planning board. If abolished the former functions of the planning board are then undertaken by the town board. *Matter of River Oakes Inc v Village of Russel Gardens* (Appellate Division 2d Department 1967) 28 AD2d 569, 280 NYS2d 436. 23 Op.State Compt. 848, 1967. 6 Op.State Compt. 39, 1950.

The balance of this memorandum discusses the relationship of the planning board to the town board and to the zoning board of appeals.

Under the New York Town Law a planning board has jurisdiction of those matters which the town board chooses to delegate to the planning board. Under the Villenova local law, other than giving recommendations, the only function delegated to the planning board is for special use permits that do not include area or use variances, for commercial projects involving 5,000 or less square feet, and residential projects involving 5 or less units. Zoning Local Law Sec. 1002.

Under the Villenova local law the town board has always retained jurisdiction of all special use permits for commercial projects involving more than 5,000 square feet, and residential projects involving more than 5 or units. Zoning Local Law Sec. 1101. If the planning board is abolished this will not change, and the town board will take over jurisdiction of the smaller commercial and residential projects that do not include an area or use variance.

Under the Villenova local law, special use permits for all wind energy facilities is the jurisdiction of the town board. Zoning Local Law Sec. 690.04. If the planning board is abolished this will not change.

Under the New York Town Law and the Villenova local law the zoning board of appeals has jurisdiction of area and use variances, and under the Villenova local law of special use permits which involve an area or use variance, for commercial projects of 5,000 or less square feet, and residential projects involving 5 or less units. Zoning Local Law Sections 903, 904 and 905. If the planning board is abolished this also will not change.

He followed that up by reading a letter from David Crossley, Code Enforcement Officer

TO: Supervisor and Town Board of the Town of Villenova

I would like to offer my report and thoughts on the proposed elimination of the Town of Villenova Planning Board. Over the last ten years the planning board has only met to comment on a handful of matters. My records show three meetings over this time period. As you know the planning board has specific duties that are limited to granting certain special use permits for approved uses and imposing reasonable stipulations with respect to the plan review. In a small town with little development as in Villenova the planning board's lack of experience and commitment to training can make it difficult to operate within the rules and regulations required by the State of New York. Also it can be difficult to find residents to serve in these positions due to the training requirements and the difficult political climate created by some of these issues. Eliminating the Planning Board and relying on the Town Board and the Zoning Board of Appeals is an excellent solution to these issues. This has already been accomplished in the neighboring communities of the Town of Charlotte, Town of Gerry, and the Village of Sinclairville. It has worked very well to help create more consistency in their decisions and knowledge of the duties of the office. I would highly recommend that the Town of Villenova Board move to eliminate the planning board.

Respectfully,
D. H. Crossley
Building & Zoning Officer

Park then gave privilege of the floor: the following is an outline from the public in attendance:

1. Nancy Huber – opposed.
2. John Robinson – opposed.
3. Evan Davis – opposed.
4. Wallace Ward – question about taxes – he was told this would be addressed later.
5. Tina Graziano – opposed.
6. Susan Baldwin – presented the board with a petition opposing.

With all in attendance being given the opportunity to speak

*****A MOTION** was made by Yvonne Park, seconded by Nathan Palmer at 7:28PM to close the public hearing and reconvene the regular meeting of the Villenova Board.

Adopted: Park - aye

LoManto - aye
Butcher - aye
Palmer - aye

Deputy Supervisor reviewed the 2020 Tentative Budget line by line;

***A MOTION was made by Sarah LoManto, seconded by Nathan Palmer to amend the 2020 Tentative Budget by reducing line A1355.1 Assessor Personal Services from \$9,785.00 to \$9,000.00 and by eliminating Line A8020.1 Zoning Personal Services \$300.00. The 2020 amended tentative budget now becomes the 2020 Preliminary Budget.

Adopted: **Park** - aye
LoManto - aye
Butcher - aye
Palmer - aye

Town Clerk Goodway read the letter of resignation she received from Richard Ardillo on August 31, 2019.

***A MOTION was made by Nathan Palmer, seconded by Sarah LoManto to accept, with regret the resignation of the Supervisor, Richard Ardillo.

Adopted: **Park** - aye
LoManto - aye
Butcher - aye
Palmer - aye

Yvonne Park, councilperson and deputy supervisor promptly resigned her positions on the Villenova Board; a letter of resignation was presented to the Town Clerk.

Attorney Don Michalak addressed the board regarding the vacancy on the board;

***A MOTION was made by Keith Butcher, seconded by Nathan Palmer as follows:

Resolution Filling Vacancy of Town Supervisor

WHEREAS, Richard Ardillo has resigned his office as Town Supervisor of the Town of Villenova by filing a resignation letter on August 31, 2019 in the office of the Town Clerk; and

WHEREAS, the resignation was effective immediately upon its filing with the Town Clerk, thus creating a vacancy in the office of Town Supervisor; and

WHEREAS, the Town Board, pursuant to Town Law § 64(5) has the authority to appoint a qualified person to fill the vacancy; and

WHEREAS, the appointed person shall hold office until the commencement of the calendar year designated pursuant to Town Law § 64(5) and Public Officers Law §42(1).

NOW THEREFORE BE IT RESOLVED by the Town Board of the Town of Villenova as follows:

1. The Town Board hereby appoints Yvonne Park, a qualified person who resigned as a member of the town board prior to this appointment, to fill the vacancy of Town Supervisor left by the resignation of Richard Ardillo.

2. Since the resignation occurred during the last year of the incumbent's term of office, the person appointed to fill the vacancy will serve for the remainder of the year, December 31, in which the vacancy occurred.

3. This resolution is effective immediately.

ROLL CALL: **Adopted:** **LoManto** - aye
Butcher - aye
Palmer - aye

Town Clerk Goodway administered the oath of office to Yvonne Park, appointed Supervisor.

***A MOTION was made by Nathan Palmer, seconded by Keith Butcher as follows:

Resolution Filling Vacancy of Town Board Member

WHEREAS, Yvonne Park has resigned her office as Town Board Member and Deputy Supervisor of the Town of Villenova by filing a resignation letter on September 11, 2019 in the office of the Town Clerk; and

WHEREAS, the resignation was effective immediately upon its filing with the Town Clerk, thus creating a vacancy in the office of Town Board Member; and

WHEREAS, the Town Board, pursuant to Town Law § 64(5), has the authority to appoint a qualified person to fill the vacancy; and

WHEREAS, the appointed person shall hold office until the commencement of the calendar year designated pursuant to Town Law § 64(5) and Public Officers Law §42(1);

NOW THEREFORE BE IT RESOLVED by the Town Board of the Town of Villenova as follows:

1.The Town Board hereby appoints Donald Chase, a qualified person, to fill the vacancy of Town Board Member left by the resignation of Yvonne Park.

2. Since the resignation occurred midterm other than in the last year of the incumbent’s term of office and less than three months before the general election, the person so appointed to fill the vacancy will serve for the remainder of the calendar year in which the vacancy occurred and through December 31 of the next calendar year.

3. This resolution is effective immediately.

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| ROLL CALL: | Adopted: | Park | - aye |
| | | LoManto | - aye |
| | | Butcher | - aye |
| | | Palmer | - aye |

Town Clerk Goodway administered the oath of office to Donald Chase, newly appointed councilperson.

*****A MOTION** was made by Sarah LoManto, seconded by Nathan Palmer **WHEREAS** a letter having previously been presented to the board from the Justice, stating the books are ready for audit and review by the board, the board **HEREBY** appoints Donald Chase and Yvonne Park to the committee to audit and report on their findings. The audit will be conducted at the Town Hall on September 16th at 10:00AM.

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| Adopted: | Park | - aye |
| | LoManto | - aye |
| | Butcher | - aye |
| | Palmer | - aye |
| | Chase | - aye |

Park extended privilege of the floor to the public

Wally Ward addressed the board about his property taxes, he feels are high making it tough to sell his land. He asked if the town would be conducting a reval soon. He wonders what can be done to lower taxes.

Marie Tomlinson states she feels a new assessment would equal a devaluation of property because of the wind towers.

Robert Stawitzky asked how many residents are tax payers.

Evan Davis states there has been an independent study that indicates the county has suffered a \$4.1 million dollar loss directly related to the wind tower development in Arkwright because the loss of bird and bats, causing an increase of insects that have destroyed cropland. There will be a devaluation of homes. Wants to know the towns plan to replace revenues lost due to turbines. States the town is negligent and the actions constitute malfeasance.

Susan Baldwin complained about house assessments increasing but people are not able to sell their homes due to the turbines causing a devaluation.

With all in attendance being given the opportunity to speak,

*****A MOTION** was made by Yvonne Park, seconded by Sarah LoManto to adjourn at 8:06PM.

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| Adopted: | Park | - aye |
| | LoManto | - aye |
| | Butcher | - aye |
| | Palmer | - aye |
| | Chase | - aye |

Respectfully Submitted,
Julie Goodway
Villenova Town Clerk

