

**TOWN OF PLATTSBURGH
TOWN BOARD MONTHLY MEETING
December 17, 2020**

The meeting was called to order at 6:00 p.m. by the presiding officer at the Town Hall on the Banker Road. Pledge

MEMBERS:

PRESENT ABSENT

Michael S. Cashman, Supervisor	x
Thomas E. Wood, Councilor	x
Meg E. Bobbin, Councilor	x
Barbara E. Hebert, Councilor	x
Charles A. Kostyk, Councilor	x
Kevin M. Patnode, Town Clerk	x
James J. Coffey, Town Attorney	x

Resolution No. 020-188

Approve Minutes of the Previous Meeting

RESOLVED, that the minutes of November 12 and 19, 2020 be approved and the reading of the minutes be dispensed with.

Motion: Barbara E. Hebert

Seconded by: Thomas E. Wood

Discussion: none

Roll Call:

Yes No Absent Carried Tabled
x

Thomas E. Wood	x
Meg E. Bobbin	x
Barbara E. Hebert	x
Charles A. Kostyk	x
Michael S. Cashman	x

Public Comment- none


12/23/2020

**TOWN OF PLATTSBURGH
TOWN BOARD SEMI MONTHLY MEETING
December 17, 2020**

Resolution No. 020-189

Abstract 12B- 20

RESOLVED, that the abstract of audited claims **No.12B-20** for \$237,825.52, **Abstract 12AB** prepays for the amount \$223,251.81 be received as reviewed by the Audit Committee and the Supervisor is hereby authorized to pay said abstracts.


Motion: Thomas E. Wood

Seconded by: Charles A. Kostyk

Discussion: none

Roll Call:	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Carried</u>	<u>Tabled</u>
				x	

Thomas E. Wood	x
Meg E. Bobbin	x
Barbara E. Hebert	x
Charles A. Kostyk	x
Michael S. Cashman	x


12/23/2020

**TOWN OF PLATTSBURGH
TOWN BOARD SEMI MONTHLY MEETINGS
December 17, 2020**

Resolution No. 020-190

Monthly Department Reports

RESOLVED, to receive and place on file Monthly Department Head Reports.

Building and Grounds - November	Codes and Zoning- November
Dog Control Officer - November	Historian-
Highway Superintendent –November	Justice Court-
Parks and Recreation- November	Planning & Community Development – November
Safety Committee –	Supervisors Financial Report- November
Tax Receiver-	Town Clerk- November
Water Wastewater - November	

Motion: Thomas E. Wood

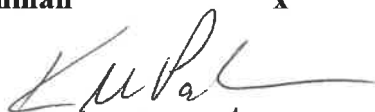
Seconded by: Meg E. Bobbin

Discussion: none

Roll Call:	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Carried</u>	<u>Tabled</u>
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x

Thomas E. Wood	x
Meg E. Bobbin	x
Barbara E. Hebert	x
Charles A. Kostyk	x
Michael S. Cashman	x


12/23/2020

**TOWN OF PLATTSBURGH
TOWN BOARD SEMI MONTHLY MEETING
December 17, 2020**

Resolution No. 20-191

2020 Budget Amendment

WHEREAS, certain lines items have been overspent in Town funds during the 2020 fiscal year; and

WHEREAS, the budget amendments will be offset from existing line items or fund balance for the 2020 budget; therefore be it

RESOLVED, that the Town Board of the Town of Plattsburgh authorize the attached budget amendments:

and be it further

RESOLVED, that a copy of this Resolution be given to the Finance Manager,

Motion to waive the read proceed to vote: Barbara E. Hebert

Seconded by: Charles A. Kostyk

Discussion: none

Roll Call:

	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Carried</u>	<u>Tabled</u>
				x	
Thomas E. Wood	x				
Meg Bobbin	x				
Barbara E. Hebert	x				
Charles Kostyk	x				
Michael S. Cashman	x				


12/23/2020

**TOWN OF PLATTSBURGH
TOWN BOARD SEMI MONTHLY MEETING
December 17, 2020**

Resolution No. 020-192

**Reappointment of Housing Development Fund
Coalition Inc. for the Town of Plattsburgh**

WHEREAS, the Town of Plattsburgh Housing Development Fund Co., Inc. and the Town of Plattsburgh Housing Coalition, Inc. bylaws call for the appointment of two elected representatives of the Town Board of the Town of Plattsburgh to serve on their respective committees; and

WHEREAS, the term of appointment for Councilman Thomas E. Wood to the Town of Plattsburgh Housing Development Fund Co., Inc. and the Town of Plattsburgh Housing Coalition, Inc. term has expired ; and

WHEREAS, it is the desire of the Town Board of the Town of Plattsburgh to continue to serve the senior citizens of the Town by appointing representative to these committees; now, therefore, it is

RESOLVED, that the Town Board of the Town of Plattsburgh does hereby reappoint Thomas E. Wood to the Town of Plattsburgh Housing Development Fund Co., Inc. and the Town of Plattsburgh Housing Coalition, Inc. to serve as its representative to those committees for a three year term to expire April 30, 2022; and, be it further

RESOLVED, that a copy be placed in Mr. Woods personnel file and be given to the Town of Plattsburgh Housing Board.


Motion to waive the read proceed to vote: Charles A. Kostyk

Seconded by: Meg E. Bobbin

Discussion: none

Roll Call:

	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Carried</u>	<u>Tabled</u>
Thomas E. Wood	abstain			x	
Meg E. Bobbin	x				
Barbara E. Hebert	x				
Charles A. Kostyk	x				
Michael S. Cashman	x				


12/23/2020

**TOWN OF PLATTSBURGH
TOWN BOARD SEMI MONTHLY MEETING
December 17, 2020**

Resolution No. 020-193

**Reappointment of Housing Development Fund
Coalition Inc. for the Town of Plattsburgh**

WHEREAS, the Town of Plattsburgh Housing Development Fund Co., Inc. and the Town of Plattsburgh Housing Coalition, Inc. bylaws call for the appointment of two elected representatives of the Town Board of the Town of Plattsburgh to serve on their respective committees; and

WHEREAS, the term of appointment for Councilman Charles A. Kostyk to the Town of Plattsburgh Housing Development Fund Co., Inc. and the Town of Plattsburgh Housing Coalition, Inc. term has expired ; and

WHEREAS, it is the desire of the Town Board of the Town of Plattsburgh to continue to serve the senior citizens of the Town by appointing representative to these committees; now, therefore, it is

RESOLVED, that the Town Board of the Town of Plattsburgh does hereby reappoint Charles A. Kostyk to the Town of Plattsburgh Housing Development Fund Co., Inc. and the Town of Plattsburgh Housing Coalition, Inc. to serve as its representative to those committees for a three year term to expire April 30, 2023; and, be it further

RESOLVED, that a copy be placed in Mr. Kostyk's personnel file and be given to the Town of Plattsburgh Housing Board.


Motion to waive the read proceed to vote: Barbara E. Hebert

Seconded by: Meg E. Bobbin

Discussion: none

Roll Call:

	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Carried</u>	<u>Tabled</u>
Thomas E. Wood	x			x	
Meg E. Bobbin	x				
Barbara E. Hebert	x				
Charles A. Kostyk	abstain				
Michael S. Cashman	x				


12/23/2020

**TOWN OF PLATTSBURGH
TOWN BOARD SEMI-MONTHLY MEETING
December 17, 2020**

Resolution No. 020-194

**Reappointments of the Water Advisory
Committee**

WHEREAS, the following members of our community possess skills and experience, and a willingness to serve as a member of the Water Advisory Committee;

Meg E. Bobbin (Councilperson)
Mike Zurlo (Clinton County Government)
Wayne Silver (Resident)
Scott Ewing (Fire Chief)
Eric Day (Emergency Services Management (Resident)

RESOLVED, that the Town of Plattsburgh Town Board does hereby reappoint them to the Water Advisory Committee, to serve a term until December 31, 2022 and, be it further

RESOLVED, that each committee member take the oath of office within thirty days of this Resolution.


Motion to waive the reading proceed to vote: Meg E. Bobbin

Seconded by: Thomas E. Wood

Discussion: none

Roll Call:	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Carried</u>	<u>Tabled</u>
				x	

Thomas E. Wood	x
Meg E. Bobbin	x
Barbara E. Hebert	x
Charles A. Kostyk	x
Michael S. Cashman	x


12/23/2020

**TOWN OF PLATTSBURGH
TOWN BOARD SEMI MONTHLY MEETING
December 17, 2020**

Resolution NO. 20-195

Appointment Of Court Clerk Pam St. John

RESOLVED, to receive and place on file a letter dated December 8, 2020 from Town Justice Joyce and Town Justice Mannix appointing Pamela St. John as full time Court Clerk for the Town of Plattsburgh Town Justices for 2021; and, be it further

RESOLVED, that a copy of this Resolution be placed in Ms. St. John's personnel files and be given to Ms. St. John and; be it further


RESOLVED, that Ms. St. John take an oath of office within thirty days of this Resolution

Motion: Barbara E. Hebert

Seconded by: Charles A. Kostyk

Discussion: none

Roll Call:	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Carried</u>	<u>Tabled</u>
				x	
Thomas E. Wood	x				
Meg E. Bobbin	x				
Barbara E. Hebert	x				
Charles A. Kostyk	x				
Michael S. Cashman	x				


12/23/2020

**TOWN OF PLATTSBURGH
TOWN BOARD SEMI MONTHLY MEETING
December 17, 2020**

Resolution NO. 20-196

Appointment Of Court Clerk Sandra Perry

RESOLVED, to receive and place on file a letter dated December 8, 2020 from Town Justice Joyce and Town Justice Mannix appointing Sandra Perry as full time Court Clerk for the Town of Plattsburgh Town Justices for 2021; and, be it further

RESOLVED, that a copy of this Resolution be placed in Ms. Perry's personnel file, a copy be given to Ms. Perry; and, be it further

RESOLVED, that Ms. Perry take an oath of office within thirty days of this Resolution


Motion: Thomas E. Wood

Seconded by: Charles A. Kostyk

Discussion: none

Roll Call:

	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Carried</u>	<u>Tabled</u>
				x	
Thomas E. Wood	x				
Meg E. Bobbin	x				
Barbara E. Hebert	x				
Charles A. Kostyk	x				
Michael S. Cashman	x				


12/23/2020

**TOWN OF PLATTSBURGH
TOWN BOARD SEMI MONTHLY MEETING
December 17, 2020**

Resolution No.020-197

Fire District Liaison for 2021

WHEREAS, the Town Board of the Town of Plattsburgh desires to maintain effective communications with the various fire districts and volunteer fire departments situated within the Town of Plattsburgh and provide to each fire district and department a Town Board member as liaison; now, therefore be it

RESOLVED, that Councilor Barbara E. Hebert be appointed to serve as a Town liaison with the Fire District # 3 and District # 3 Fire Department; and, it is further

RESOLVED, that Councilor Meg E. Bobbin be appointed to serve as a Town liaison with the Cadyville Fire District and Cadyville Fire Department; and, it is further

RESOLVED, that Councilor Thomas E. Wood be appointed to serve as a Town liaison with the Morrisonville Fire District and Morrisonville Fire Department; and, it is further

RESOLVED, that Councilor Charles Kostyk be appointed to serve as a Town liaison with the South Plattsburgh Fire District and South Plattsburgh Fire Department; and, it is further

RESOLVED, that Supervisor Michael S. Cashman be appointed to serve as a Town liaison with the Cumberland Head Fire District and Cumberland Head Fire Department; and, it is further

RESOLVED, that the liaison write a letter to each District and Department advising each of their appointment and offering their assistance as Town Board member for the year 2021.

Motion to waive the reading proceed to vote: Thomas E. Wood

Seconded by: Meg E. Bobbin

Discussion: Yes

Roll Call:	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Carried</u>	<u>Tabled</u>
				x	

Thomas E. Wood	x
Meg E. Bobbin	x
Barbara E. Hebert	x
Charles A. Kostyk	x
Michael S. Cashman	x


12/23/2020

**TOWN OF PLATTSBURGH
TOWN BOARD SEMI MONTHLY MEETING
December 17, 2020**

Resolution No. 020-198

Committee Appointments For 2021

RESOLVED, that Councilors Thomas E. Wood and Barbara E. Hebert be appointed to serve on the Assessing, Planning, and Zoning Committees for the year 2021. This Committee shall assist with rezoning, updating zoning, and matters concerning assessing; and, it is further

RESOLVED, that Councilors, Charles A. Kostyk and Barbara E. Hebert be appointed to the Auditing Committees for the year 2021. This Committee shall examine all vouchers presented to the Town Board for payment; and, it is further

RESOLVED, that Councilors Charles A. Kostyk and Meg E. Bobbin be appointed to serve on the Building and Grounds Committee for the year 2021. This Committee shall make reports and recommendations on all Town buildings and properties including special districts; and, it is further

RESOLVED, that Councilors Meg E. LeFevre Bobbin and Charles A. Kostyk be appointed to serve on the Community Services and Ambulance Committees for the year 2021. This Committee shall concern itself with liaison and cooperation with municipalities and Ambulance Service providers in the matters of joint service issues that may be presented to the Town Board; and, it is further

RESOLVED, that Councilor Barbara E. Hebert be appointed to serve on the Finance Committee for the year 2021 and is to report to the Town Supervisor and Town Board its findings, and, it is further

RESOLVED, that Councilors Thomas E. Wood and Barbara E. Hebert be appointed to serve on the Highway Committee for the year 2021. This Committee is to observe the conditions of all highway equipment, road signs, and Town highways and thereby report to the Town Superintendent of Highways and to the Town Board on said conditions and recommendations; and, it is further

RESOLVED, that Councilors Thomas E. Wood and Barbara E. Hebert be appointed to serve on the Justice Court Committee for the year 2021 This Committee shall advise the office staff and make report of conditions and recommendations to the Town Board; and, it is further

RESOLVED, that Councilors Meg E. Bobbin and Charles A. Kostyk be appointed to serve on the Personnel Committee for the year 2021. This Committee shall advise the office staff and make a report of conditions and recommendations to the Town Board; and, it is further

RESOLVED, that Councilors Charles A. Kostyk and Thomas E. Wood be appointed to serve on the Safety Committee for the year 2021. This Committee shall review all reported employee accidents, preside over employee safety meetings, and make reports and recommendations to the Town Board; and, it is further

RESOLVED, that Councilors Meg E. Bobbin and Charles A. Kostyk be appointed to serve on the Water and Wastewater Committee for the year 2021. This Committee shall inspect the water and sewer facilities and make a report of conditions and recommendations to the Water and Wastewater Director and the Town Board; and, it is further

RESOLVED, that Councilors Charles A. Kostyk and Meg E. Bobbin be appointed to serve on the Youth Services and Recreation Committee for the year 2021. This Committee shall advise the Youth Services and Recreation Director and make a report of conditions and recommendations to the Town Board.

RESOLVED, that Councilors Thomas E. Wood and Barbara E. Hebert be appointed to serve on the Town Clerk for the year 2021. This Committee shall advise the office staff and make report of conditions and recommendations to the Town Board; and, it is further

RESOLVED, that Councilors Thomas E. Wood and Barbara E. Hebert be appointed to serve on the Tax Receiver Committee for the year 2021. This Committee shall advise the office staff and make report of conditions and recommendations to the Town Board.

Motion to wave reading proceed to vote: Thomas E. Wood

Seconded by: Barbara E. Hebert

Discussion: none

Roll Call:	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Carried</u>	<u>Tabled</u>
				x	
Thomas E. Wood	x				
Meg E. Bobbin	x				
Barbara E. Hebert	x				
Charles A. Kostyk	x				
Michael S. Cashman	x				


12/23/2020

**TOWN OF PLATTSBURGH
TOWN BOARD SEMI MONTHLY MEETING
December 17, 2020**

Resolution No. 020 –199

**Emergency Medical Transport of CVPH, Inc
Service Agreement**

RESOLVED, after review and approval by the Town Attorney, the Agreement, with the Emergency Medical Transport of CVPH Inc., and the Town of Plattsburgh is hereby approved for the period of January 1, 2021 through December 31, 2023; and it is further

RESOLVED, that the Supervisor be and he hereby is authorized to sign said Agreement for the Town; and be it further

RESOLVED, that a copy of this Resolution and contract Agreement be given to the Finance Manager and the CFO for Emergency Medical Transport of CVPH Ambulance.

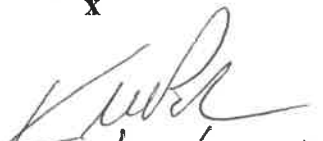
Motion: Meg E. Bobbin

Seconded by: Charles A. Kostyk

Discussion: none

Roll Call:

	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Carried</u>	<u>Tabled</u>
				x	
Thomas E. Wood	x				
Meg E. Bobbin	x				
Barbara E. Hebert	x				
Charles A. Kostyk	x				
Michael S. Cashman	x				


12/23/2020

**TOWN OF PLATTSBURGH
TOWN SRMI MONTHLY BOARD MEETING
December 17, 2020**

Resolution No. 020 –200

**Morrisonville Volunteer Schuyler Falls
Ambulance Service Agreement**

RESOLVED, after review and approval by the Town Attorney, the Agreement with the Morrisonville Schuyler Falls Ambulance Service, and the Town of Plattsburgh hereby is approved for the period of January 1, 2021 through December 31, 2023; and it is further

RESOLVED, that the Supervisor be and he hereby is authorized to sign said Agreements for the Town; and be it further

RESOLVED, that a copy of this Resolution and contract Agreement be given to the Finance Manager and Morrisonville Volunteer Schuyler Falls Ambulance Service.

Motion to waive the reading proceed to vote: Charles A. Kostyk

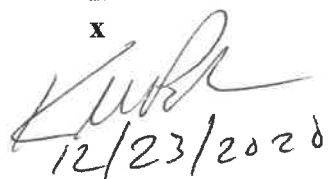
Seconded by: Barbara E. Hebert

Discussion: Yes

Roll Call:	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Carried</u>	<u>Tabled</u>
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x

Thomas E. Wood	x
Meg E. Bobbin	x
Barbara E. Hebert	x
Charles A. Kostyk	x
Michael S. Cashman	x


12/23/2020

**TOWN OF PLATTSBURGH
TOWN BOARD SEMI MONTHLY MEETING
December 17, 2020**

Resolution No. 20-201

Elmore SPCA Agreement

WHEREAS, on occasion it is necessary for the Dog Control Officers to Kennel stray dogs and provide other Kennel services as appropriate and approved by the Supervisor; therefore be it

RESOLVED that, after the Town Attorney's review, the Supervisor be authorized to sign an Agreement between Elmore SPCA, Inc. and the Town Of Plattsburgh to follow the provision of Article 7 of the Agriculture and Markets Law and any rules and regulation promulgated pursuant thereto in relation to the seizure, holding, care, redemption and disposition of seized dogs, in The Town of Plattsburgh; and be it further

RESOLVED, that a copy of this Resolution be given to the Finance Manager, Dog Control Officer and Elmore's SPCA Peru, New York 12972 .


Motion to waive the reading proceed to vote: Charles A. Kostyk

Seconded by: Thomas E. Wood

Discussion: none

Roll Call:

	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Carried</u>	<u>Tabled</u>
				x	
Thomas E. Wood	x				
Meg E. Bobbin	x				
Barbara E. Hebert	x				
Charles A. Kostyk	x				
Michael S. Cashman	x				


12/23/2020

**TOWN OF PLATTSBURGH
TOWN BOARD SEMI MONTHLY MEETING
December 17, 2020**

Resolution No. 020-202

Home Town Hero Banner Award

WHEREAS, resolution 020-157 authorized the Town of Plattsburgh to seek proposals from qualified vendors having experience in providing avenue banners for our Hometown Heroes Banner program; and

WHEREAS, the Town of Plattsburgh did receive proposals from 4 qualified vendor to provide the required services in connection with the needs identified in the RFP; and

WHEREAS, it has been determined that it is in the best interest of the Town and its partners to contract with the qualified vendor providing the best value; now, therefore be it

RESOLVED, the Town of Plattsburgh Town Board, upon approval and recommendation of the Town Attorney, does hereby accept and award to Finney Sports, with an address of 7226 State Route 9 North, NY 12901 and; it is further

RESOLVED, that the Supervisor is hereby authorized and directed to execute the Agreements for said services; and be it further


RESOLVED, that a copy of this Resolution be given to the Finance Manager, and the Planning and Community Development Department.

Motion to waive the reading proceed to vote: Barbara E. Hebert

Seconded by: Thomas E. Wood

Discussion: none

Roll Call:	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Carried</u>	<u>Tabled</u>
				x	
Thomas E. Wood	x				
Meg E. Bobbin	x				
Barbara E. Hebert	x				
Charles A. Kostyk	x				
Michael S. Cashman	x				


12/23/2020

**TOWN OF PLATTSBURGH
TOWN BOARD SEMI MONTHLY MEETING**

December 17, 2020

Res. No. 020-203

**INVOLVED AGENCY FINDINGS STATEMENT
PURSUANT TO THE STATE ENVIRONMENTAL
QUALITY REVIEW ACT (SEQRA)**

This action is taken pursuant to 6 N.Y.C.R.R. Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review) of the Environmental Conservation Law of the State of New York ("SEQRA"), with regard to the following Project.

WHEREAS, in or about January 2019, the Common Council of the City of Plattsburgh, Clinton County, New York (the "City") approved a proposal by the City of Plattsburgh for the annexation of land situated within the Town of Plattsburgh (the "Town") into the City (the "Annexation"); and

WHEREAS, according to the aforementioned resolution, the parcel(s) to be annexed were described as follows: approximately 224 +/- acre¹ parcel off Rugar Street situated in the Town of Plattsburgh, identified therein as tax map parcel 200.-4-32 (the "Property"); and

WHEREAS, by resolution adopted in January 2019, the City resolved to determine the Annexation as a Type I action, with the Town designated as one of several involved agencies, and expressed its declaration of intent to serve as a lead agency; and

WHEREAS, on February 28, 2019 the City adopted a resolution to formally request that it be designated as lead agency pursuant to SEQRA; and

WHEREAS, the Town submitted numerous objections to the City's intent to serve lead agency, and a formal dispute regarding the City's lead agency status was brought before the NYS Department of Environmental Conservation ("DEC"); and

WHEREAS, by Decision dated May 15, 2019, DEC Commissioner Seggos determined that with respect to the Annexation, the City should be lead agency for purposes of SEQRA, noting "[t]he City Council must consider any significant environmental impacts identified by the Town Council during the review of this action including those related to existing plans for future development of the Property, if any....I further encourage the City Council to openly facilitate that participation by the Town council and other involved agencies."; and

WHEREAS, in stark contrast to Commissioner Seggos' directive to the City to consider potential significant adverse environmental impacts identified by the Town and to openly facilitate participation by the Town in the SEQRA review process, during the remainder 2019 and early 2020 the City did not solicit the Town's input into the environmental impact review

¹ Although the City has described the area to be annexed as a "+/- 224 acre parcel off Rugar Street" in its August 4, 2020 correspondence accompanying the Petition, if one aggregates the total acreage of such tax parcels in the Proposed Annexation area, the total parcel acreage is actually comprised of 220.17 acres (the sum of Tax Parcel No. 220.-4-31.2 at 0.87 acres and Tax Parcel No. 220.-4-32 at 219.3 acres).

process, nor did it provide the Town with the results of any reports and studies it amassed in furtherance of its goal of pursuing the Annexation; and

WHEREAS, by Resolution #7 F passed on May 28, 2020, the City approved a proposal by Councilor Gibbs, seconded by Councilor Moore, for adopting a negative declaration for the Annexation and authorizing filing in accordance with the requirements of SEQRA (the "Negative Declaration"); and

WHEREAS, by correspondence to the Town, dated June 3, 2020, the City submitted a FEAF and Addendum, a copy of which is included in the Town's Record of Proceeds Regarding Proposed Annexation of Certain Territories by the City of Plattsburgh dated December 17, 2020 (the "Record") as Item No. 10(A), notifying the Town of the Negative Declaration;

WHEREAS, by correspondence to the Town, dated June 7, 2019, a copy of which is attached to the Record as Item No. 10(B), the City requested that any responses, comments, or objections should be communicated to the City; and

WHEREAS, by correspondence dated June 19, 2020 from the Town to the City, a copy of which is attached to the Record as Item No. 10(C), the Town notified the City (i) it had not provided notice to, nor requested concurrence from, the Town to proceed as lead agency under SEQRA, (ii) had not requested comments as to the potential adverse environmental impacts of the Annexation, (iii) requested the City provide the appropriate notice of its intent to act as lead agency in accordance with the SEQRA regulations, and (iv) advising the City of its concerns and comments regarding the potential adverse environmental impacts of the Annexation; and

WHEREAS, by correspondence from the City's Corporate Counsel to the Town dated July 1, 2020, in response to the June 19, 2020 correspondence, the City provided a rebuttal; and

WHEREAS, by correspondence from the Town's Corporate Counsel to the City dated September 24, 2020, a copy of which is attached to the Record as Item No. 10(E); the Town objected to: (i) the Annexation; (ii) the public hearing, and (iii) the SEQRA process employed by the City; and

WHEREAS, by correspondence from the City's Corporate Counsel to the Town dated October 1, 2020, the City provided a rebuttal to the objections made by the Town on September 24, 2020; and

WHEREAS, unbeknownst to and without any consultation with or input by the Town, the City sought out additional input from consultants, revised its Addendum to FEAF Part 1 and its Attachment to FEAF Part 3 (the "Amended SEQRA Findings"), resulting in the City amending the Negative Declaration by resolution on December 3, 2020 (the "Amended Negative Declaration"); and

WHEREAS, the Town was not provided with or notified of the Amended SEQRA Findings until December 9, 2020, after the City had already adopted its Amended Negative Declaration.

NOW THEREFORE BE IT RESOLVED THAT the Town adopts the following resolution with regard to consideration of the potential significant adverse environmental impacts of the Annexation pursuant to SEQRA:

Section 1 The Town, as an involved agency pursuant to SEQRA, has considered the Annexation pursuant to the applicable parameters set forth in the SEQRA regulations.

Section 2 The Town classifies its review and approval of the Annexation as an Unlisted Action pursuant to the SEQRA regulations.

Section 3 The Town has carefully reviewed the City's original and Amended SEQRA Findings, the criteria set forth in 6 N.Y.C.R.R. § 617.7(c) of the SEQRA regulations, as well as considered any and all comments received from the involved and interested agencies and the public regarding the Annexation. Based on the foregoing information, the Town has thoroughly analyzed the potential relevant areas of environmental concern and finds that the Annexation will result in a potential significant adverse impact on the environment for the following reasons:

- a. A coordinated SEQRA review of the annexation has not been completed by the City Council. None of the studies and reports dated between December 2019 and February 2020 were shared with the Town prior to its May 2020 Negative Declaration, nor did the City share any of its Amended SEQRA Findings with the Town. Furthermore, the Town had transmitted an overwhelming number of reports, plans and studies to the City with associated concerns expressed during the Lead Agency dispute before Commissioner Seggos. The majority of those concerns, especially regarding water and wastewater infrastructure, have been largely ignored and remain unaddressed by the City Council's SEQRA review.
- b. The City has been untimely and incomplete in the SEQRA review process regarding the identification of the annexation as a Type I action pursuant to SEQRA or the notification of all involved agencies including the Town Board of the Town of Plattsburgh. The Mayor's request for the Town to "provide written comments as soon as practical regarding any significant environmental impacts identified by the Town" was sent on June 7, 2019, nearly one year prior to the completion of Part I of the EAF. The request for comment on SEQRA issues to an involved agency must include the EAF Part I completed by the project sponsor which clearly defines the action. An EAF Part I or associated materials were not included with the Mayor's request in 2019, nor were any of the Amended SEQRA Findings or associated materials ever provided to the Town for its review.
- c. The additional substantive objections to the City's SEQRA review as contained in the Town's correspondence to the City dated September 24, 2020, attached to the Record as Item No. 10(E), are incorporated herein by reference.
- d. Any potential positive economic impacts relating to the Annexation will be significantly local in nature; to the contrary, the Town and affected school districts

will be primarily and negatively impacted by the Annexation. The 2020 assessed combined value of the Property is \$2,500,300. Thus, the effect of the Proposed Annexation would be to reduce the total assessed valuation of real property for the Town of Plattsburgh by \$2,500,300, shifting that tax base to the City. The Annexation would result in an ongoing annual loss of tax revenues to the Town. As of 2020, the Town currently receives \$11,401.17 in revenue from the Property to fund fire, ambulance, highway, and lighting, sewer, and water districts. The Beekmantown School District also receives \$45,226.03. In total, the annual revenue loss to the Town, school district, and other special taxing districts would total \$71,700.90 based on 2020 tax rates. The evidence presented at the joint public hearing suggests that this loss of revenue could require tax increases in excess of the municipal tax caps, or significant expenditure cuts, resulting in the likely loss or reduction of funding to support community services, and educational staffing and programming. The impact on the Town and its surrounding communities will be far greater than the benefits the City might gain. In this case, the economic considerations which will be felt at the local (Town) level in the form of loss of significant tax revenues will not be sufficiently minimized or avoided by the City, as there is no forethought that has or will be made into minimizing said impact to the involved agencies should the Annexation be approved. Such a failure to employ a balancing analysis of environmental costs with economic and technical benefits alone should be grounds for nullifying the administrative decision made by the City. *See*, ECL § 8-0101 et seq.; *see also Town of Henrietta v. Department of Environmental Conservation of the State of New York*, 76 A.D.2d 215 (4th Dep't, 1980).

Section 4 Having considered aforementioned oral and written evidence, and having considered the preceding written facts and conclusions and specific findings relied upon to meet the requirements of 6 N.Y.C.R.R. Part 617, this resolution certifies that:

- a. Consistent with the social, economic and other essential considerations, from among the reasonable alternatives thereto, the proposed Annexation is not deemed to be an action which minimizes or avoids adverse environmental effects to the maximum extent practicable;
- b. Consistent with the social, economic and other essential considerations, from among the reasonable alternatives thereto, the proposed Annexation cannot be approved as once which minimizes or avoids adverse environmental effects to the maximum extent practicable; and
- c. Based on the foregoing, the Town finds that the Annexation will potentially have a significant adverse impact on the environment in accordance with the New York State Environmental Quality Review Act, Article 8 of the New York Environmental Conservation Law, and, in particular, pursuant to the criteria found at 6 N.Y.C.R.R. § 617.7(b) of the SEQRA regulations. The City therefore does not concur with either/both the Negative Declaration and/or the Amended Negative Declaration issued by the City..

Section 5 This Resolution has been prepared in accordance with Article 8 of the New York Environmental Conservation Act by the Town Board of the Town of Plattsburgh, 151 Banker Road, Plattsburgh, New York 12901; Phone: (518) 562-6800.

Section 7 This Resolution shall take effect immediately upon adoption and shall be published in accordance with any and all requirements set forth in state or local law.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

Motion: Charles A. Kostyk

Seconded by: Barbara E. Hebert

Discussion:

	Yes	No	Absent	Abstain	Carried	Tabled
					x	
Michael S. Cashman	x					
Barbara E. Hebert	x					
Charles A. Kostyk	x					
Meg E. Bobbin	x					
Tom E. Wood	x					

The Resolution was thereupon duly adopted this 17th day of December, 2020.



12/23/2020

**TOWN OF PLATTSBURGH
TOWN BOARD SEMI MONTHLY MEETING
December 17, 2020**

**RES. NO. 020-204 FINDINGS, OBJECTIONS,
DETERMINATIONS AND ORDER REGARDING THE
PETITION OF THE CITY
OF PLATTSBURGH FOR THE PROPOSED ANNEXATION
OF TERRITORY FROM THE
TOWN OF PLATTSBURGH TO THE CITY OF
PLATTSBURGH, IN CLINTON COUNTY, NEW YORK**

WHEREAS, a petition dated August 3, 2020 (“Petition”), was presented to the Town Board of the Town of Plattsburgh (“Town”) on August 4, 2020 by the City of Plattsburgh (“City”) for the annexation of territory of approximately 224 +/- acres¹ situated in the Town (the “Proposed Annexation”), which territory is identified in the Petition and by Tax Map Parcel No. 220.-4-32 (formerly Tax Map Parcel Nos. 220.-4-31.31 and 220.-4-31.1) and Tax Map Parcel No. 220-4-31.2 (collectively, the “Property”), as more fully described in the Petition, a copy of which is attached as **Exhibit A**; and

WHEREAS, the City purported to issue, on behalf of both the City and the Town, a notice dated on August 24, 2020 (“Notice”) of a joint public hearing on the Proposed Annexation, a copy of which is attached as **Exhibit B**;

WHEREAS, on September 1, 2020, the Town commenced a hybrid declaratory judgment action and special proceeding under CPLR Article 78 in the Supreme Court of the State of New York, County of Clinton, entitled *Town of Plattsburgh et al. v. City of Plattsburgh et al.*, Index No. 2020-00020563 (the “Notice Proceeding”), alleging that the Notice was invalid and seeking to stay the proposed public hearing;

WHEREAS, on September 24, 2020, the Court (Hon. John T. Ellis, J.S.C.) entered a decision and order dismissing the Notice Proceeding for lack of standing, which order the Town is in the process of appealing to the Appellate Division, Third Department;

WHEREAS, on September 24, 2020, the City held a public hearing on the Petition pursuant to Sections 704 and 705 of the General Municipal Law, in which the Town participated under protest, and in which the City and the Town heard testimony and received comments, objection, and written submissions from parties interested in the Proposed Annexation; and

¹ Although the City has described the area to be annexed as a “+/- 224 acre parcel off Rugar Street” in its August 4, 2020 correspondence accompanying the Petition, if one aggregates the total acreage of such tax parcels in the Proposed Annexation area, the total parcel acreage is actually comprised of 220.17 acres (the sum of Tax Parcel No. 220.-4-31.2 at 0.87 acres and Tax Parcel No. 220.-4-32 at 219.3 acres).

WHEREAS, after consideration of oral, written and documentary evidence including the Petition, the oral testimony (reduced to writing in a written transcript), and written evidence presented at the hearing and subsequent submissions thereto, the Town Board has determined that the Petition does not substantially comply in form and content with the provisions of Section 703 of the General Municipal Law; and

WHEREAS, after consideration of oral, written and documentary evidence including the Petition, the oral testimony (reduced to writing in a written transcript), and written evidence presented at the hearing and subsequent submissions thereto, the Town Board has further determined that the Proposed Annexation of the Property by the City would not serve the overall public interest; and

WHEREAS, such oral, written and documentary evidence presented at the hearing held on September 24, 2020, and subsequent submissions thereto, together with documents related to the environmental review process pertaining to the Proposed Annexation, are set forth in the Town of Plattsburgh Record of Proceedings Regarding Proposed Annexation of Certain Territories by the City of Plattsburgh dated December 17, 2020 (the “Record”), and are hereby incorporated by reference;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Plattsburgh, Clinton County, New York, makes the following Findings, Objections, And Determinations and Order in accordance with Article 17 of the General Municipal Law (also known as the “Municipal Annexation Law”):

BACKGROUND

For several decades, the City owned a parcel of land approximately 177-acres in size, situated within the Town, near the corporate limits of the City. Beginning in or around 2018, the City began purchasing additional parcels of land to form the 224-acre area that comprises the Property that is the target of the Proposed Annexation.

Initially, the City publicly announced that it planned to use part of the Property to relocate the City’s Municipal Lighting Department. However, since that announcement approximately one year ago, the City proceeded to purchase additional real property elsewhere in the Town, and has pursued plans to relocate its Municipal Lighting Department there instead. Accordingly, the Property, which is the subject of the Proposed Annexation, will not be used for that original purpose.

Since abandoning its initial plans to use the Property, the City has since announced a vague plan to redevelop the Property in an attempt to attract industry; however, no such plans have yet taken shape. The City has presented only theoretical concepts—not actual plans—for the redevelopment of the Property.

In the midst of a global pandemic and despite the ongoing state of emergency at the federal and state level imposed due to the COVID-19 pandemic, the City has pressed

forward with its agenda and attempt to annex the Property. In doing so, as described in greater detail below, the City failed to abide by the statutory requirements of Article 17 of the General Municipal Law. Both its Petition and Notice were flawed. Moreover, at the public hearing held September 24, 2020, the testimony put forth by the City's representatives, combined with written and documentary submissions and testimony from the public, did not produce compelling evidence that the Proposed Annexation would be in the overall public interest. Rather, on balance, for the reasons set forth herein, the overall record of testimony and evidence reviewed and considered by this Town Council supports a determination that (1) the City did not comply with the requirements of SEQRA; (2) the Petition did not comply in form and content with the requirements of the Municipal Annexation Law; and (shared with the Town until after the City issued its negative declaration. Prior to that time, the City never attempted to coordinate review with the Town as instructed by DEC 3) the Proposed Annexation is not in the overall public interest.

FINDINGS, OBJECTIONS, AND DETERMINATIONS

A. The form and content of the Petition are defective.

Pursuant to section 704 of the General Municipal Law, the Town submitted written objections to the form and content of the Petition during the September 24, 2020 hearing. A copy of the Town's objection is attached as **Exhibit C**. The Town Board finds that the City failed to rebut these objections. As briefly summarized below, Petition does not substantially comply in form or content with the provisions of Article 17 of the General Municipal Law in at least two respects.

First, the Petition does not accurately describe the territory to be annexed. Specifically, paragraph 3 of the Petition describes Parcel 220.-4-31.2 as "vacant, approximately 100' x 300', and is assessed for \$300." In fact, Parcel 220.-4-31.2 is 100' x **380'** in lot size.

Second, the Petition does not substantially comply in form or content requirements in the statute because the sworn statement of Brian M. Dowling, Assessor for the Town, dated July 1, 2020 and attached to the Petition (the "Assessor Certification"), does not certify that the Petition "is signed by the owners of a majority in assessed valuation of the real property in such territory assessed upon the last preceding assessment roll of" the Town, as required by General Municipal Law section 703(3). Specifically, paragraph 4 of the Assessor Certification states that "[t]he aforementioned tax map description of real property is assessed on the last preceding assessment rolls, the majority or \$2,500,000 of the \$2,500,000 assessment (100%) is in the name of the Petitioner, City of Plattsburgh, for the area sought to be annexed." The "aforementioned tax map" referenced in paragraph 4 is Tax Map Parcel No. 220.-4-32. However, as set forth above, the entire territory to be annexed is not limited to such parcel, it actually contains two parcels.

As set forth in paragraph 3 of the Petition, Tax Map Parcel No. 220.-4-31.2 is also included in the territory to be annexed. The document therefore does not therefore certify the Petition is signed by a majority of the owners of the entire territory to be annexed, but instead certifies to the majority ownership as to one out of the two parcels described in the Petition. Based on the foregoing, the Assessor's Certification does not comply with the requirements of General Municipal Law Section 703.

The City has attempted to blame these deficiencies on the Town's assessor. However, the Town Board finds that the City failed to provide the Town assessor with complete and accurate information concerning the Property. Specifically, the City failed to provide the Town assessor with information concerning Instrument #2019-00299118 with regard land claimed by the City which is west of a recorded deed that was not included in the deed description provided to the assessor.. Furthermore, based on the information provided by the City, the Town assessor believed the City's proffered description of the Property to be inaccurate or misleading. The Town Board finds that the City, as petitioner, has the duty to provide complete information to the Town assessor and to request a certification from the Town assessor that meets the statutory requirements. The City failed to do so here.

B. The Notice was defective because the City did not comply with Section 704 of the General Municipal Law.

The Town Board finds that the Notice of Joint Hearing was defective because the City failed to follow statutory procedures in purporting to issue a notice on the Town's behalf. Section 704 of the General Municipal Law governs how and when one local government may notice a joint hearing on behalf of another local government.

As applied, here, Section 704 of the General Municipal Law requires that that both the City and the Town, "within twenty days after receipt of a petition" for annexation, "respectively cause a notice to be published once in ... their official newspapers[.]"² If and only if the Town "shall fail to publish" its notice within the prescribed statutory time, then City may "amend and republish its ... notice and, on behalf of [the Town], publish and mail such notices."³ The amendment and republication must take place "during an additional twenty days following the forty day period" that follows the publication of the City's initial notice.⁴ The Town Board concludes that the City did not follow this required procedure.

1. The Town's twenty-day deadline to publish its notice was tolled by executive order.

On March 7, 2020, in response to the threat posed by novel coronavirus disease ("COVID-19"), Governor Andrew M. Cuomo declared a state of disaster emergency for

² General Municipal Law § 704 subd. 1.

³ General Municipal Law § 704 subd. 3.

⁴ General Municipal Law § 704 subd. 3.

the State of New York.⁵ Using his authority under Executive Law article 2-B, Governor Cuomo has issued a series of additional Executive Orders that have suspended or modified provisions of New York law to facilitate the State's efforts to combat COVID-19 (the "COVID-19 Executive Orders").

Included among the COVID-19 Executive Orders, beginning on March 20, 2020, Governor Cuomo tolled various statutes of limitations and other time limitations contained in the State's procedural laws. Executive Order 202.8 provides, in relevant part:

In accordance with the directive of the Chief Judge of the State to limit court operations to essential matters during the pendency of the COVID-19 health crisis, any specific time limit for the commencement, filing, or service of any legal action, notice, motion, or other process or proceeding, as prescribed by the procedural laws of the state, including but not limited to the criminal procedure law, the family court act, the civil practice law and rules, the court of claims act, the surrogate's court procedure act, and the uniform court acts, or by any other statute, local law, ordinance, order, rule, or regulation, or part thereof, is hereby tolled from the date of this executive order until April 19, 2020[.⁶]

With certain exceptions not applicable here, this toll was extended by subsequent executive orders through November 3, 2020.⁷ Accordingly, the Town would have had until November 23, 2020 to issue a notice of hearing. The City's attempt to issue a notice on behalf of the Town before the deadline expired was improper.

2. The City failed to amend and republish its notice.

Even if the City were correct that the Town's deadline to publish its notice was not tolled by executive order, then the procedure adopted by the City was still defective. The City failed to follow the steps set forth in the statute for giving substitute notice on behalf of the Town. As noted above, the City must first give notice on its own behalf, wait for the Town to default, and then amend and republish its notice during a twenty-day period following the expiration of the Town's twenty-day deadline. The City failed to do so here; it instead purported to provide notice on the Town's behalf in the first instance, which the Article 17 of the General Municipal Law does not permit.

⁵ Executive Order (A. Cuomo) No. 202 (9 NYCRR § 8.202).

⁶ Executive Order (A. Cuomo) No. 202.8 (9 NYCRR § 8.202).

⁷ Executive Order (A. Cuomo) Nos. 202.14, 202.28, 202.38, 202.48, 202.55, 202.60, and 202.67 (9 NYCRR § 8.202).

C. The public hearing was inadequate.

1. The City improperly held a hybrid remote and in-person public meeting in violation of executive orders.

On April 9, 2020, Governor Cuomo issued Executive Order 202.15, which postponed any required public hearings, allowing them to go forward using remote means at the option of the convening public body or official:

Any local official, state official or local government or school, which, by virtue of any law has a public hearing scheduled or otherwise required to take place in April or May of 2020 *shall be postponed*, until June 1, 2020, without prejudice, however such hearing may continue if the convening public body or official is able to hold the public hearing remotely, through use of telephone conference, video conference, and/or other similar service.^[8]

This provision was further extended as the result of subsequent executive orders and continued to be in effect as of September 24, 2020, the date of the joint public hearing, and remain in effect through at least January 1, 2021.⁹

Under these executive orders, the joint public hearing, even if had been properly noticed, would have been automatically postponed by operation of law unless the “convening public body” determines that it is able to hold the hearing via remote means.¹⁰ The Town, as a convening public body of the joint hearing, made no such determination. The executive order contains no mechanism that would allow the City to override the Town’s determination. Thus, it was unlawful for the City to unilaterally determine that the hearing would proceed during the disaster state of emergency, notwithstanding the ongoing public health crisis, using a hybrid of remote and in-person means.

2. The record evidence shows that the use of remote means did not allow for adequate public participation.

One of the purposes of holding a joint public hearing on a proposed annexation is to allow any interested stakeholders—including taxpayers, businesses, and special taxing districts—to provide comments and to participate in the annexation process.

⁸ Executive Order (A. Cuomo) No. 202.15 (9 NYCRR § 8.202) (emphasis added).

⁹ Executive Order (A. Cuomo) Nos. 202.29, 202.39, 202.49, 202.55, 202.60, 202.67, 202.72, and 202.79 (9 NYCRR § 8.202).

¹⁰ Executive Order (A. Cuomo) No. 202.15 (9 NYCRR § 8.202) (emphasis added).

The Town finds that the City's use of videoconferencing software did not allow for full public participation. For example, one commenter noted that the hearing "fell short in properly informing residents of the details of the annexation," noting that:

Throughout the duration of the meeting, it was difficult to follow due to the poor sound quality and often inaudible responses by those presenting information. The power point slides could not be seen from the video camera's distance from the screen. When the meeting concluded, we had more questions than answers due to the lack of both audio and video quality.^[11]

Another resident similarly complained that "it was impossible to see most of the information presented on the hearing room screen."¹² Similarly, another attendee stated that "[i]t was impossible to see the slides provided by the presenters from either side" and that "there were times when it was difficult to follow what [a speaker] was saying."¹³

These comments confirm that the City's unilaterally imposed method of conducting the joint public hearing did not provide for full, meaningful participation by all interested stakeholders. Even if it had been permissible for the City to use video conferencing technology over the Town's objectives (and it was not), the City failed to use the technology in a way that allowed all participants to see and hear what was going on.

D. The City has not complied with SEQRA.

The City has failed to follow the procedural and substantive requirements of the New York State Environmental Quality Review Act ("SEQRA").¹⁴ The Town will respond to the City's amended negative declaration in a separate resolution, and only briefly summarizes its position here.

In appointing the City as the Lead Agency for the SEQR process, the Commissioner of the New York State Department of Environmental Conservation ("DEC") instructed the City to openly facilitate participation by the Town and other involved agencies. The City failed to do so. Instead, the City unilaterally conducted multiple studies that were not shared with the Town until after the City issued its negative declaration. Prior to that time, the City never attempted to coordinate review with the Town as instructed by DEC.

¹¹ September 30, 2020 Email from Gabe Alexandrou to Sylvia Parrotte.

¹² September 30, 2020 Email from Susan H. Angell to Kevin Patnode.

¹³ September 30, 2020 Email from Walter T. Palmer to Kevin Patnode.

¹⁴ Env'tl. Conserv. Law art. 8.

E. The Proposed Annexation would not serve the overall public interest.

In determining whether an annexation is in the overall public interest, court precedent has established the criteria the affected municipalities must use to evaluate and make their determinations as to whether the annexation is in the overall public interest.

First, it is necessary to weigh the “benefit or detriment to the annexing municipality, to the territory proposed to be annexed, and to the remaining governmental units from which the territory would be taken.”¹⁵ “Benefit and detriment are customarily defined in terms of municipal services such as police and fire protection, health regulations, sewer and water service, public utilities and public education.”¹⁶

Additionally, to evaluate and balance whether the annexation is in the overall public interest, the governing boards should consider whether or not the annexing municipality and the territory proposed to be annexed have “the requisite unity of purpose and facilities to constitute a community.”¹⁷

Applying these standards here, the Town Board concludes that the City failed to show that the Proposed Annexation would serve the overall public interest for at least the following reasons.

1. Most of the purported benefits to the City are hypothetical and speculative because the City has no actual plan—only a concept.

In support of its annexation Petition, the City has touted its desire to redevelop the Property and has asserted that the redevelopment would create jobs.¹⁸ The Town finds, however, that the City has not presented sufficient evidence that any such benefits will be realized. Instead, the City has presented only vague, hypothetical, and speculative ideas about the future of the Property, which cannot support the City’s assertion that the Proposed Annexation would serve the overall public interest.

The City created a document that it characterizes as a “master plan” for the redevelopment of the Property, but admits that it is “only a concept.”¹⁹ Likewise, the City’s special counsel described the City’s development plan for the Property as “theoretical,”²⁰ underscoring its uncertain nature. Notably, the Plattsburgh City School District took no

¹⁵ *Matter of Board of Trustees v Town of Ramapo*, 171 AD2d 861, 862 (2d Dept 1991).

¹⁶ *Inc. Village of Ilion v Town Bd. of Frankfort*, 261 AD2d 952, 952 (4th Dept 1999), quoting *Matter of Town of Lansing v Village of Lansing*, 80 AD2d 942, 942 (3d Dept 1981).

¹⁷ *Matter of Common Council of City of Gloversville v Town Bd. Of Town of Johnstown*, 32 NY2d 1, 6 (1973).

¹⁸ See Hearing Transcript at pp. 12–13 (statement of Mayor Read).

¹⁹ Hearing Transcript at p. 16 (statement of Mayor Read).

²⁰ October 1, 2020 Rebuttal to Objections Made by the Town of Plattsburgh on September 24, 2020, at p. 2.

position on the Proposed Annexation, citing the lack of any “clear direction regarding the development of the land proposed for annexation.”²¹

Mayor Read claims to have “performed an analysis of the impact of the annexation,”²² but contrary to Mayor Read’s claims, the analysis was not shared with the Town. Nor did the City submit any such analysis into the record at the joint public hearing. On September 25, 2020, the Town requested a copy of the analysis, but the City has not provided it to the Town.

The fact is that City has not prepared a comprehensive redevelopment plan for the Property. Indeed, the City has only recently formed a committee to begin the process of forming a comprehensive plan. At this point in time, the City has no way of predicting the outcome of what will certainly be a multi-year process of holding hearings, eliciting public comment, and creating comprehensive development plan.

At the joint public hearing, the City suggested that the Property could be rezoned for residential, commercial, and industrial development, and that this new zoning would “still be complementary to existing town zoning.”²³ The Town Board concludes that this is mere speculation, given that the City has not yet undertaken any zoning process and therefore cannot predict the outcome of that process. In fact, not only has the City not yet undertaken any zoning process relative to the Property, on December 10, 2020, the city adopted Local Law P-4 of 2020, amending Chapter 300 “Subdivision of Land” and Chapter 360 “Zoning” of the City Code of the City of Plattsburgh to provide exemptions for City projects. Nor has the City gone through the processes to create the economic incentives for redevelopment, such as the negotiation of PILOT agreements, IDA incentives, or Start-Up NY tax abatements.

The City has asserted that the provision of inexpensive electricity from the City would spur the redevelopment of the Property. But the Town does not find any evidence of that in the hearing record. The Town finds that the City has seen little commercial or industrial development in the past few decades not because of a lack of developable land, but because of its high tax rates. By contrast, the Town has seen the development of 300,000 square feet of commercial and industrial development in the last two years, with another 200,000 square feet of additional development awaiting construction. The chances of a successful redevelopment of the Property are higher if it remains part of the Town.

The Town presented evidence at the joint public hearing that the City does not need any additional land for development because the City has a lower population and a lower

²¹ September 29, 2020 Letter from Jay Lebrun, Superintendent of Schools.

²² Hearing Transcript at p. 12 (statement of Mayor Read).

²³ Hearing Transcript at p. 30 (statement of Malana Tamer).

building density than it did 30 years ago. Rather than expand its borders, the City ought to focus on the responsible redevelopment of the land within its existing borders.

In sum, the Town finds that the redevelopment of the Property is not a well-planned part of the City's development and zoning strategy. Instead, it appears to be simply a pet project of an outgoing elected official, rushed through by an outgoing City administration without proper planning, without adequate study, and without evidence that it will create any economic growth, and given the recent passage of City of Plattsburgh Local Law P-4 of 2020, part of a concerted effort of the City to take control of the Property and determine its use outside of the typical subdivision and zoning procedures already in place.

2. The Proposed Annexation will shift part of the Town's tax base to the City without any evidence of offsetting benefits.

The 2020 assessed combined value of the Property is \$2,500,300. Thus, the effect of the Proposed Annexation would be to reduce the total assessed valuation of real property for the Town of Plattsburgh by \$2,500,300, shifting that tax base to the City.

The annexation would result in an ongoing annual loss of tax revenues to the Town. As of 2020, the Town currently receives \$11,401.17 in revenue from the Property to fund fire, ambulance, highway, and lighting, sewer, and water districts. The Beekmantown School District also receives \$45,226.03. In total, the annual revenue loss to the Town, school district, and other special taxing districts would total \$71,700.90 based on 2020 tax rates. The evidence presented at the joint public hearing suggests that this loss of revenue could require tax increases in excess of the municipal tax caps, or significant expenditure cuts, resulting in the likely loss or reduction of funding to support community services, and educational staffing and programming. The impact on the Town and its surrounding communities will be far greater than the benefits the City might gain.

The City asserts that its own taxpayers will "save substantial real property taxes" from the Proposed Annexation.²⁴ Yet the City has also suggested that it will spend money to invest in new utility service for electricity, water, and sewer connections to the City. The City has not provided any analysis which shows that the cost of these improvements would be offset by the City's tax savings. As a result, the City has not even shown that its own taxpayers would see a net benefit from the Proposed Annexation—much less that the annexation would provide offsetting benefits to the Town of the School District.

Even if the City's development plans do come to fruition at some indeterminate point in the future—and, as noted above, that has not been shown to be likely—the purported benefits of that redevelopment would inure to the City alone. Neither the Town, the Beekmantown School District, nor other relevant taxing jurisdictions would not share in any increased tax revenue generated by these hypothetical future projects. While the City

²⁴ Hearing Transcript, pp. 28–29 (statement of Malana Tamer).

has asserted that the “lion’s share” of employees filling these hypothetical future jobs “would likely reside and shop in the Town,”²⁵ the City provided no evidence to support this assertion. The Town’s experience based on industrial development in the past few years has been that it has not correlated with the construction of new homes within the Town. If these jobs ever materialize, the economic benefits are more likely to go to nearby towns, including Peru, Beekmantown, Saranac, and Schuyler Falls.

An annexation is not in the overall public interest where it would merely shift tax revenues from one jurisdiction to another without providing any corresponding benefit to offset the lost tax revenue.²⁶ That is the case here, where the annexation’s ill effects would be real and immediate, and any positive effects would be conjectural and remote and, even if realized, would inure only to the benefit of the City and not the Town.

3. The Proposed Annexation would impose added costs upon the Town and its taxpayers.

The Proposed Annexation would not only take away from the Town’s tax base, but it would also impose additional burdens on the Town.

For example, if the City redevelops the Property with industrial development, it would likely lead to an increase in traffic that will affect nearby Town roads and Town residents. This conclusion is supported by the City’s own January 2020 traffic study, which found the need for, at a minimum, \$870,000 in traffic improvements required solely within the Town, should the City’s plan come to fruition.

If the City continues its efforts to move forward with the annexation over the Town’s objection, the end result will be expensive and protracted legal proceedings, in which both sides will spend taxpayer dollars to litigate issues central to the Proposed Annexation, including the form and substance of the City’s annexation petition, whether the Proposed Annexation is in the overall public interest, and whether the City complied with SEQRA.

Far from providing a benefit to one municipal entity over the other, the protracted annexation litigation which is surely to ensue as a result of these proceedings, rather than solving the City’s financial problems, will only serve to exacerbate them, resulting in an overall detriment to both sides.

4. The Proposed Annexation would not improve access to utilities and public services at the Property.

At present, the Property is adequately served by Town utility services, including water, sewer, and lighting services with adequate capacity. The City has not presented sufficient

²⁵ Hearing Transcript at p. 13 (statement of Mayor Read); *see also id.* at pp. 32–33 (statement of Malana Tamer).

²⁶ *See City of Johnstown v Town of Johnstown*, 207 AD2d 923, 924 (3rd Dept 1994).

evidence to show that any additional services are necessary or that annexing the Property to the City would provide service benefits that outweigh the transition costs.

Fire, EMS, and Police Protection: The Property is protected by adequate fire protection and emergency medical services, which are provided by the District No. 3 Volunteer Fire Department. The department is comprised of approximately 40 active members, which includes both interior and exterior firefighters. In order to be a member of District No. 3, each member is required to live within the District or within one mile from the station. On average, six to eight of the district's members respond to calls, and its response time is less than five minutes. District No. 3 is also certified as a First Response Emergency Medical Services (EMS) agency.

District No. 3 operates Station No. 2, which is located at 95 Hammond Lane in the Town of Plattsburgh, is located less than a mile away from the Property, and is equipped with sufficient apparatus to respond in the event fire protection services are needed at the Property. For example, Station No. 2 is equipped with a 100-foot aerial platform, a fire engine, a heavy rescue with capabilities including stabilization, hazmat and Jaws of Life, and a utility truck.

The Town is party to several mutual aid agreements²⁷ that provide for assistance from nearby fire departments. In the case of structural fires, such assistances often is provided by the Morrisonville Fire Department as well as the South Plattsburgh Fire Department. The City of Plattsburgh Fire Department does not typically respond to fires within the territory of District No. 3.

There is also adequate police protection, available from the New York State Police and the Clinton County Sheriff's Office.

At the public hearing, the City did not present evidence that annexation would improve fire protection or EMS service to the Property. The City fire chief estimated a six-minute response time to the Property, which is greater than the five-minute response time averaged by the Town.²⁸ The City did not rebut the Town's showing that fire protection could actually decrease due to the way that mutual aid requests are processed for fires within the City limits, pursuant to the County Fire Plan.

²⁷ The Town submitted into the hearing record copies of (i) the Clinton County Emergency Medical Services Mutual Aid Plan, submitted and approved by the Mountain Lakes Regional EMS Council on January 23, 2012; (ii) the Clinton County Mutual Aid Plan for Fire, Disaster, EMS, updated July 2004; and (iii) the Clinton County Fire Mutual Aid Plan Automatic Mutual Aid Revision, adopted by the Clinton County Fire Advisory Board on January 18, 2017.

²⁸ Hearing Transcript at p. 54 (statement of Scott Lawless).

Sewer and Water: The Property has existing connections to Town sewer and water services. The City provided no evidence that these services are unreliable, lack capacity, or are otherwise inadequate to service the Property.

The City suggests that it could add hookups to the City municipal water system by extending the existing City water line by 1,000 feet.²⁹ But the City has not identified how much those improvements would cost or how long they would take. Thus, while the City claims that City water service would be less expensive in terms of annual usage costs, it has not offered any overall assessment as to how such theoretical cost savings would compare to the added up-front costs of changing from Town water to City water.

Electricity: The Property is located within the electric franchise service territory of New York State Electric & Gas Corporation (“NYSEG”). As set forth in NYSEG’s letter opposing the Proposed Annexation, dated September 30, 2020, NYSEG maintains electric facilities within the Property, including distribution poles, cables, transformers, streetlights, and underground vaults.

The City has argued that it can bring development to the Property because it can provide lower cost hydroelectric power. The City proposes to connect to its distribution system by extending distribution lines by approximately three-quarters of a mile and eventually building a new substation on the Property.³⁰ The Town, however, finds that that City failed to show that its plan is feasible, for at least the following reasons.

First, the City has not shown that it has the legal right to annex territory from NYSEG’s service territory without the payment of just compensation. NYSEG argues that such action would constitute an unconstitutional taking of NYSEG’s property rights. NYSEG has indicated that it will seek to enforce its legal rights, which could lead to a protracted legal proceeding. The City has not shown that it is likely to prevail in any such proceeding. Even if it does, the City has not shown that the benefits would be outweighed by the cost to taxpayers.

Second, the City would have to build additional infrastructure to connect the Property to its power distribution system. To the Town’s knowledge, the City has not presented any estimate of the cost involved in adding such improvements. If added, these improvements would replace existing NYSEG equipment, some of which was upgraded as recently as this year, which would be wasteful.

Third, the City’s supply of low-cost hydroelectric power is capped. If the Municipal Lighting Department exceeds the cap, it would have to purchase additional power on the “spot” market at much higher rates. The Town Board finds that the City has not shown that it has sufficient capacity within its system to provide low-cost electricity to industrial and

²⁹ Hearing Transcript at p. 45 (statement of Jonathan Ruff).

³⁰ Hearing Transcript at p. 51 (statement of Bill Treacy).

commercial businesses that might relocate to the Property in a hypothetical future redevelopment.

5. The Proposed Annexation will not result in the requisite unity of purpose and facilities to constitute a community.

The City has gerrymandered the boundaries of the Property to achieve technical compliance with the contiguity requirement for annexation. The only contiguous area is along a riverside—an area constrained by steep slopes, difficult terrain, and wetlands—with no public access. The only access to the subject lands will always require passage through the Town, via Rugar Street, a Town road. The Property shares no meaningful connection with the City’s territory.

The City has also drawn the boundary in an irregular way so as to exclude residences comprising more than 30 tax parcels. This appears to have been done to avoid seeking the consent of these residents in the affected neighborhood. If the Property is annexed, the externalities would be felt by these residents, who would be surrounded on the side on both sides but would not themselves be within the City limits.

INDEBTEDNESS

There is no separate agreement with the City relating to the assumption of indebtedness and/or liability or apportionment of same.

CONCLUSION

Based on the foregoing, and based on the Record of the Proposed Annexation incorporated herein by reference the Petition for the annexation to the City of the 224-acre Property situated in the Town is hereby denied based on the determination of the Town Board of the Town of Plattsburgh that (1) the Petition does not comply in form and content with the provisions of Article 17 of the General Municipal Law and (2) the Proposed Annexation would not be in the overall public interest.

(Remainder of page left intentionally blank)

NOW, THEREFORE BE IT HEREBY RESOLVED THAT:

Based on the foregoing, the August 3, 2020 Petition for annexation to the City of approximately "224 +/-" acres of territory situated in the Town is hereby **denied**, for the following reasons:

- a. the Petition does not comply in form and content with the provisions of Article 17 of the General Municipal Law, and
- b. the Town does not find the annexation of the territory in question from the Town to the City to be in the overall public interest.

Motion: Thomas E. Wood

Seconded by: Barbara E. Hebert

Discussion: none

<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Abstain</u>	<u>Carried</u>	<u>Tabled</u>
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x

Michael S. Cashman	x
Barbara E. Hebert	x
Charles A. Kostyk	x
Meg E. Bobbin	x
Tom E. Wood	x

The Resolution was thereupon declared duly adopted by the following vote:

Dated: December 17, 2020

Kevin Patnode, Town Clerk


12/23/2020

NOW, THEREFORE, IT IS HEREBY ORDERED by the Town Board of the Town of Plattsburgh, Clinton County, New York, as follows:

Section 1. The Petition of the City dated August 3, 2020 and received by the Town on August 4, 2020, for annexation to the City of the territory described in said Petition, does not substantially comply in form and content with the provisions of Article 17 of the GML, in violation of GML §705(1)(d).

Section 2. It is not in the overall public interest to approve the proposed Annexation, for reasons set forth in the accompanying findings, objections and determinations, including, but not limited to: a) the Annexation will not facilitate the speculative development of the Property described in the Petition; b) the Annexation will not allow for access to enhanced municipal services within the City; c) the Annexation will negatively impact the underlying school districts, the Town, and surrounding communities, and such negative impacts outweigh benefits to the City and d) the Annexation does not provide the requisite unity of purpose and facilities to constitute a community.

Section 3. The Annexation to the City of approximately 224 +/-acres of territory situated in the Town, which territory is more particularly described in the Petition, is hereby rejected.

Motion: Charles A. Kostyk
Seconded by: Barbara E. Hebert
Discussion: none

Roll Call:	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Carried</u>	<u>Tabled</u>
				x	
Thomas E. Wood	x				
Meg E. Bobbin	x				
Barbara E. Hebert	x				
Charles A. Kostyk	x				
Michael S. Cashman	x				

Michael S. Cashman

Barbara E. Hebert

Charles A. Kostyk

Meg E. Bobbin

Tom E. Wood

Dated: December 17, 2020


12/23/2020

**TOWN OF PLATTSBURGH
TOWN SEMI MONTHLY MEETING
December 17, 2020**

Motion to go into Executive Session

Motion to come out of Executive Session

**Motion by: Charles A. Kostyk
Seconded by: Meg E. Bobbin
Time: 7:22**

**Motion by: Thomas E. Wood
Seconded by: Charles A. Kostyk
Time: 7:59**

Roll Call:	<u>YES</u>	<u>NO</u>
Thomas E. Wood	x	
Meg E. Bobbin	x	
Barbara E. Hebert	x	
Charles A. Kostyk	x	
Michael S. Cashman	x	

Roll Call:	<u>YES</u>	<u>NO</u>
Thomas E. Wood	x	
Meg E. Bobbin	x	
Barbara E. Hebert	x	
Charles A. Kostyk	x	
Michael S. Cashman	x	

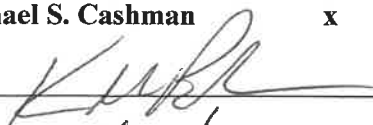
RESOLVED, that this Town Board meeting be adjourned at 7:59 PM.

Motion by: Thomas E. Wood

Seconded by: Charles A. Kostyk

Discussion:

Roll Call:	<u>Yes</u>	<u>No</u>	<u>Carried</u>
			X
Thomas E. Wood	x		
Meg E. Bobbin	x		
Barbara E. Hebert	x		
Charles A. Kostyk	x		
Michael S. Cashman	x		


12/23/2020