


EXHIBIT 1



Town of Clifton Park
Office of Town Attorney

Thomas McCarthy
Town Attorney

MEMO

Date: October 17, 2022
To: Town Board
From: Tom 
Re: Investigation into Political Activities by employee Andrus on Town Time with Town Equipment and Systems

Following the August 15, 2022 Town Board meeting, the Supervisor asked for an investigation into the extent to which Matt Andrus was working with political adversaries on the Town Board to undermine him, and doing so on Town Time, with Town equipment.

During a formal investigation interview on September 30, 2022 Mr. Andrus denied ever speaking to Councilmember Amy Standaert relative to a voice message recorded on April 4, 2022, and played so dramatically at the August Town Board meeting to imply wrongdoing on the Supervisor's behalf. Mr. Andrus acknowledged that Councilmember Standaert and Supervisor Barrett were adversaries who "do not speak," and asserted that he had forwarded the electronic voice message (from a receptionist at Peter Luizzi Brothers) to Councilmember Standaert, but never spoke to her at the time, or in August, about the voice message, and was "as surprised as anyone" when it was used politically against the Town Supervisor, his direct supervisor.

However, he did admit to helping Councilmember Standaert write the incendiary and politically charged "prepared statement" read at the January 10, 2022 meeting relative to the Supervisor's appearance in the parking lot at the Common during a COVID test kit distribution event. He could not recall details of his contribution to the commentary, stating that he would need to review his files or notes. Therefore, an investigation ensued into electronic records owned by the Town. It was determined that on January 10, 2022, Councilmember Amy Standaert forwarded a 6 paragraph ¾ page draft version of the "statement" to Mr. Andrus at 10:24am with the request "please proof read". One hour later, at 11:24am, Mr. Andrus forwarded a 13 paragraph version, covering 2 full pages, and adding much more incendiary and politically charged language to the document, which became the "prepared statement" that Councilmember Standaert read at that evening's Town Board meeting.

The review thus far has also determined that on January 7, Councilmember Standaert forwarded a draft, Subject: "As discussed" of the "prepared statement" to Mr. Andrus at his workstation, and at 5:05 o'clock on January 7, he sent a second version of the document, Subject: "per your request", which was much more florid and politically charged than the first and adding a string of media contacts to the CC's. Then Mr. Andrus placed the 10th call of the day (10 minutes) to Councilmember Standaert at 5:08pm, having already spoken for a total of 80+ minutes on January 7th prior to sending out the "as discussed" statement.

Moreover, electronic records also show that Mr. Andrus forwarded the 9:39am April 4 voice message to me for proper handing at 9:54am on that date, and, also forwarded the recording, inappropriately, to Councilmember Standaert at 11:05am on April 5. Telephone records show that at 9:41am on April 4 Mr. Andrus initiated a phone call to Councilmember Standaert and again at 9:54am when they apparently spoke for 26 minutes. They spoke again that day at 11:17am, 1:19pm and 3:37pm for a total of 92 minutes (on 4/4). It is simply not credible that Mr. Andrus received this voice message, which he reportedly forwarded to me for proper handling "as it conflicts with prohibited activities as listed in the employee handbook," then spoke to Councilwoman Standaert, (an acknowledged political adversary and opponent to Supervisor Barrett to whom she "doesn't speak"); spoke to her at length all day long, but not about this call and how it could be used politically to undermine his direct supervisor. In fact, it was only used for political purposes, 4 months later, consistent with the January 10 diatribes.

These acts represent clear insubordination. Coupled with the fact that they were accomplished on Town time, with Town equipment and communication systems, they are clear violations of the Town's Policies and Procedures Manual. Further, dishonesty about a material fact, during formal questioning represents untrustworthiness. These actions, singularly and together, are all clear grounds for termination and would have been so proved in forthcoming proceedings. As a result of negotiations with Mr. Andrus' counsel, with these facts in mind, we agreed to place Mr. Andrus on 90 days paid administrative leave and he agreed to submit an irrevocable letter of resignation. The agreement representing these negotiations is before you tonight.

3/23/2022 Count	3	10:39:40 outbound	242	88815419	000:00:39:30	000:00:39:21	39	External
		13:13:57 outbound	242	88815419	000:00:05:53	000:00:05:42	5	External
		13:21:52 outbound	242	88815419	000:00:28:25	000:00:28:10	28	External
		16:41:18 outbound	242	88815419	000:00:23:54	000:00:23:40	23	External
3/24/2022 Count	4	9:24:33 outbound	242	88815419	000:00:00:40	000:00:00:06	1	External
		11:53:53 outbound	242	88815419	000:00:51:40	000:00:51:28	51	External
		12:49:32 inbound	5188815419	5183716651	000:01:38:05	000:01:38:01	38	616 242
3/25/2022 Count	3	9:47:20 outbound	242	88815419	000:00:00:39	000:00:00:03	1	External
		10:44:07 outbound	242	88815419	000:01:22:37	000:01:22:26	82	External
		12:35:40 outbound	242	88815419	000:00:24:44	000:00:24:29	24	External
		13:35:47 outbound	242	88815419	000:00:00:38	000:00:00:03	1	External
		15:50:53 outbound	242	88815419	000:00:00:38	000:00:00:03	1	External
3/29/2022 Count	5	9:27:04 outbound	242	88815419	000:01:26:47	000:01:26:28	86	External
		15:54:45 inbound	5188815419	5183716651	000:00:16:03	000:00:15:58	16	616 242
3/30/2022 Count	2	16:50:25 outbound	242	88815419	000:00:11:02	000:00:10:44	10	External
3/31/2022 Count	1	9:06:42 outbound	242	88815419	000:00:37:01	000:00:36:50	37	External
		12:08:49 outbound	242	88815419	000:00:00:10	000:00:00:03	1	External
		12:12:25 outbound	242	88815419	000:00:23:11	000:00:22:58	23	External
4/1/2022 Count	3	9:41:38 outbound	242	88815419	000:00:00:41	000:00:00:04	1	External
		9:54:19 outbound	242	88815419	000:00:25:55	000:00:25:41	26	External
		11:17:20 outbound	242	88815419	000:00:23:16	000:00:23:00	23	External
		13:19:21 outbound	242	88815419	000:00:23:30	000:00:23:16	23	External
		15:37:27 outbound	242	88815419	000:00:17:18	000:00:17:09	17	External
4/4/2022 Count	5	9:12:56 outbound	242	88815419	000:00:09:15	000:00:09:01	9	External
		9:55:15 outbound	242	88815419	000:00:00:36	000:00:00:01	1	External
		10:09:55 outbound	242	88815419	000:00:00:46	000:00:00:31	1	External
		10:39:41 inbound	5188815419	5183716651	000:00:30:48	000:00:30:42	31	616 242
		13:07:25 inbound	5188815419	5183716651	000:00:29:44	000:00:29:38	29	616 242
		15:41:04 outbound	242	88815419	000:00:00:40	000:00:00:04	1	External

Tom McCarthy

From: Tom McCarthy
Sent: Monday, April 4, 2022 10:02 AM
To: Matthew Andrus
Subject: RE: Voice message from 5184828954

Thanks, Matt, I will let Phil know and he will handle it with his private phone. I think Pam may have forwarded to you in error.

-----Original Message-----

From: Matthew Andrus <mandrus@cliftonpark.org>
Sent: Monday, April 4, 2022 9:54 AM
To: Tom McCarthy <TMcCarthy@cliftonpark.org>
Subject: FW: Voice message from 5184828954

Tom;

I've just received the attached voicemail. The message makes reference to a political campaign donation for the supervisor.

I do not know why I received the telephone call, only that it was forwarded to me by Pam at the reception desk. I do not know the individual or organization in question that made the call.

I have not responded to the call as it conflicts with prohibited activities as listed in the employee handbook.

Please advise as to what further action if any I should take. Thank you.

Matthew Andrus
Town of Clifton Park
One Town Hall Plaza
Clifton Park, New York 12065

-----Original Message-----

From: noreply@vaspian.io <noreply@vaspian.io>
Sent: Monday, April 4, 2022 9:40 AM
To: Matthew Andrus <mandrus@cliftonpark.org>
Subject: Voice message from 5184828954

This 28.7-second voice message was deposited in your mailbox from 5184828954 on 04/04/2022 at 09:38:36 AM.

Hi, Matthew. This is montes. I'm calling from Peter Louisiana brothers. We are looking to send over a donation to support still berets reelection efforts and I just wanted to make sure if it would be made out to friends of bill Barrett and I understand someone was coming by to pick it up. If you could just let me know my number is 518-482-8954 extension 104 thanks so much.

I do not know why I received the telephone call, only that it was forwarded to me by Pam at the reception desk. I do not know the individual or organization in question that made the call.

I have not responded to the call as it conflicts with prohibited activities as listed in the employee handbook.

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Tom McCarthy

From: Phil Barrett <PBarrett@cliftonpark.org>
Sent: Monday, April 4, 2022 11:35 AM
To: Tom McCarthy
Subject: RE: Voice message from 5184828954

Interesting. Nobody I have spoken to.

Phil Barrett
Clifton Park Town Supervisor

-----Original Message-----

From: Tom McCarthy <TMcCarthy@cliftonpark.org>
Sent: Monday, April 4, 2022 11:05 AM
To: Phil Barrett <PBarrett@cliftonpark.org>
Subject: RE: Voice message from 5184828954

Peter Liuzzi

-----Original Message-----

From: Phil Barrett <PBarrett@cliftonpark.org>
Sent: Monday, April 4, 2022 10:39 AM
To: Tom McCarthy <TMcCarthy@cliftonpark.org>
Subject: RE: Voice message from 5184828954

What the heck is that?

Phil Barrett
Clifton Park Town Supervisor

-----Original Message-----

From: Tom McCarthy <TMcCarthy@cliftonpark.org>
Sent: Monday, April 4, 2022 10:36 AM
To: Phil Barrett <PBarrett@cliftonpark.org>
Subject: FW: Voice message from 5184828954

I called her and told her it was FOPB.

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From: Matthew Andrus <mandrus@cliftonpark.org>
Sent: Monday, April 4, 2022 9:54 AM
To: Tom McCarthy <TMcCarthy@cliftonpark.org>
Subject: FW: Voice message from 5184828954

Tom,

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Meg Springli

To: tmccart4@nycap.rr.com
Subject: RE: We'd love to help.

From: tmccart4@nycap.rr.com <tmccart4@nycap.rr.com>
Sent: Wednesday, August 17, 2022 6:51 PM
To: Tom McCarthy <TMCCarthy@cliftonpark.org>
Cc: Meg Springli <mspringli@cliftonpark.org>
Subject: FW: We'd love to help.

From: Verizon Wireless <NotificationOnly@ecrmEmail.VerizonWireless.com>
Sent: Wednesday, August 17, 2022 3:31 PM
To: TMCCART4@NYCAP.RR.COM
Subject: We'd love to help.

We're reviewing your request as we speak.



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Let's make things happen.

Thanks for reaching out to us for help. We've processed your request. To recap, here's what we've done:

Hi, this is Axle of Verizon Wireless. This is an email regards with your records of call from your previous records last April 4 of this year, 2022. Time: 9:18 AM (518.668.2414) (2) 10:02 AM (518.482.8954) (1) 11:51 AM (518.832.7862) (1) 11:52 AM (518.793.5601) (4) 4:17 PM (518.832.7862) (2) 5:04 PM (518.937.3094) (11) Thank you.

If you need anything else, please visit us [online](#) or in the My Verizon app.

If you have questions about this request, feel free to give us a call at 1.800.922.0204 or dial *611. We're open 7 AM – 11 PM, Mon – Fri, and 8 AM – 9 PM, Sat – Sun, local time.

Thanks for choosing Verizon.

Sincerely,

The Verizon Wireless Customer Service Center

Date	Time	From	Dialed	Target	Answer	Length	Status
1/10/2022	17:09:33 EDT		-310	-242	242 Voice Mail	0:00:04	redirected
1/10/2022	16:27:28 EDT		-242 (8) 881-		External	0:13:42	dialed
1/10/2022	16:26:18 EDT		-240	-242	242 242	0:00:51	answered
1/10/2022	15:58:05 EDT		-242 (8) 881-		External	0:00:05	dialed
1/10/2022	15:19:43 EDT		-242	-313	313 313	0:01:21	dialed
1/10/2022	14:57:49 EDT		-313	-242	242 Voice Mail	0:00:27	redirected
1/10/2022	13:34:19 EDT		-245	-242	242 242	0:00:44	answered
1/10/2022	13:30:27 EDT		-242 (8) 881-		External	0:14:02	dialed
1/10/2022	12:41:51 EDT		-242 (8) 207-4801		External	0:06:10	dialed
1/10/2022	11:42:40 EDT		-242 (8) 881-		External	0:00:03	dialed
1/10/2022	10:38:57 EDT		-242	-245	245 Voice Mail	0:00:03	dialed
1/10/2022	10:13:58 EDT	(518) 881-	(518) 371-6651	616	242	0:21:49	answered
1/10/2022	09:51:20 EDT		-242	-623	623 Voice Mail	0:00:02	dialed
1/10/2022	09:29:31 EDT		-242 (8) 881-		External	0:09:47	dialed

55 minutes on January 10

Elected officials must hold themselves to a higher standard. Your repeated poor judgement, negligence and selfishness has perverted the beneficence of every effort our team has accomplished throughout this pandemic. People have trusted you for over 2 decades. You have officially violated that trust.

On January 7, 2022, I sent you a letter asking for clarification regarding your positive covid diagnosis due to the significant discrepancies in your statement to the Town Board on January 3rd and statements that you have given to the media.

Concerned residents and town employees are asking for answers, and you are the only one that can provide them. The discrepancies and questions need to be addressed to restore confidence and trust in the office of the town supervisor. Therefore, on behalf of the residents of Clifton Park and all Town of Clifton Park employees, I once again publicly request that you address them.

Specifically: When exactly was the onset of your symptoms?

Did you self-isolate?

When did you take your first covid test?

Was the January 3, 2022, rapid test results your first positive test result?

If you took the test the morning of January 3, why were you at Town Hall?

For purposes of contact tracing which Town Hall employees came into close contact with you 2 days prior to the onset of your symptoms?

Did you notify any Town Hall employees that you tested positive?

Did you notify Saratoga County Public Health Services of your positive test result as required and if so, when?

Did you receive isolation orders from New York State Department of Health or SCPHS contact tracers?

Before returning to work from isolation will you provide a release from the Department of Health which has been required of from all town employees who have previously tested positive for COVID during the pandemic?

Elected officials are not above the people they represent. They are called upon to be public servants. As such, public servants should be straight forward, not evasive, and honest in their dealings with them. The residents of Clifton Park and our town employees deserve to know the

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Email	Entire Message	contains	voice message	AND	Search	Basic
Email	Date	on or after	2022-04-04	AND		
Email	Entire Message	contains	mandrus@cliftonpark.org			

Save Search

Displaying 1 - 4

Resend to Me	Tools	View								
Date	Size	From	To/Co.	Subject						
2022-04-04 09:39:39	140.7K	noreply@vaspian.io	mandrus@cliftonpark.org	Voice message from 5184828954						
2022-04-04 09:54:19	134.1K	mandrus@cliftonpark.org	TMcCarthy@cliftonpark.org	FW: Voice message from 5184828954						
2022-04-04 09:54:25	142.0K	Matthew Andrus <mandrus@cliftonpark.org>	Tom McCarthy <TMcCarthy@cliftonpark.org>	FW: Voice message from 5184828954						
2022-04-04 10:01:35	17.0K	TMcCarthy@cliftonpark.org	mandrus@cliftonpark.org	RE: Voice message from 5184828954						
2022-04-04 10:01:39	25.0K	Tom McCarthy <TMcCarthy@cliftonpark.org>	Matthew Andrus <mandrus@cliftonpark.org>	RE: Voice message from 5184828954						
2022-04-04 10:27:41	170.1K	noreply@vaspian.io	mandrus@cliftonpark.org	Voice message from 320						
2022-04-04 10:36:07	131.7K	TMcCarthy@cliftonpark.org	PBarrett@cliftonpark.org	FW: Voice message from 5184828954						
2022-04-04 10:36:12	142.4K	Tom McCarthy <TMcCarthy@cliftonpark.org>	Phil Barrett <PBarrett@cliftonpark.org>	FW: Voice message from 5184828954						
2022-04-04 10:39:06	17.3K	PBarrett@cliftonpark.org	TMcCarthy@cliftonpark.org	RE: Voice message from 5184828954						
2022-04-04 10:39:12	25.6K	Phil Barrett <PBarrett@cliftonpark.org>	Tom McCarthy <TMcCarthy@cliftonpark.org>	RE: Voice message from 5184828954						
2022-04-04 10:52:10	39.1K	noreply@vaspian.io	mandrus@cliftonpark.org	Voice message from 5183640338						
2022-04-04 11:05:07	16.8K	TMcCarthy@cliftonpark.org	PBarrett@cliftonpark.org	RE: Voice message from 5184828954						
2022-04-04 11:05:10	25.6K	Tom McCarthy <TMcCarthy@cliftonpark.org>	Phil Barrett <PBarrett@cliftonpark.org>	RE: Voice message from 5184828954						
2022-04-04 11:34:37	18.2K	PBarrett@cliftonpark.org	TMcCarthy@cliftonpark.org	RE: Voice message from 5184828954						
2022-04-04 11:34:41	26.2K	Phil Barrett <PBarrett@cliftonpark.org>	Tom McCarthy <TMcCarthy@cliftonpark.org>	RE: Voice message from 5184828954						
2022-04-04 13:34:14	31.1K	noreply@vaspian.io	mandrus@cliftonpark.org	Voice message from 5182389220						
2022-04-04 13:55:04	41.1K	noreply@vaspian.io	mandrus@cliftonpark.org	Voice message from 209						
2022-04-05 09:42:12	130.8K	noreply@vaspian.io	mandrus@cliftonpark.org	Voice message from 5186417331						
2022-04-05 10:26:23	52.6K	noreply@vaspian.io	mandrus@cliftonpark.org	Voice message from 240						
2022-04-05 11:05:55	133.0K	mandrus@cliftonpark.org	AStandaert@cliftonpark.org	FW: Voice message from 5184828954						
2022-04-05 11:06:02	140.8K	Matthew Andrus <mandrus@cliftonpark.org>	Amy Standaert <AStandaert@cliftonpark.org>	FW: Voice message from 5184828954						
2022-04-05 12:41:16	94.3K	noreply@vaspian.io	mandrus@cliftonpark.org	Voice message from 202						
2022-04-07 12:27:00	160.3K	noreply@vaspian.io	mandrus@cliftonpark.org	Voice message from 5184890904						
2022-04-07 12:29:25	37.3K	noreply@vaspian.io	mandrus@cliftonpark.org	Voice message from 5188815419						
2022-04-07 15:12:33	40.9K	noreply@vaspian.io	mandrus@cliftonpark.org	Voice message from 245						
2022-04-08 11:18:07	54.3K	noreply@vaspian.io	mandrus@cliftonpark.org	Voice message from 5186085805						

Help

Subject: FW: Voice message from 5184828954
Date: 2022-04-05 11:05:55
Download
From: mandrus@cliftonpark.org
To/Cc: AStandaert@cliftonpark.org

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-----Original Message-----

From: noreply@vaspian.io <noreply@vaspian.io>
Sent: Monday, April 4, 2022 9:40 AM
To: Matthew Andrus <mandrus@cliftonpark.org>
Subject: Voice message from 5184828954

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 townofcliftonpark-242-2022_04_04T13_38_38_410_0000.mp3 (116KB)

Subject: RE: Voice message from 5184828954
Date: 2022-04-04 11:34:37
Download
From: PBarrett@cliftonpark.org
To/Cc: TMcCarthy@cliftonpark.org

View Message View Source

Interesting. Nobody I have spoken to.

Phil Barrett
Clifton Park Town Supervisor

-----Original Message-----
From: Tom McCarthy <TMcCarthy@cliftonpark.org>
Sent: Monday, April 4, 2022 11:05 AM
To: Phil Barrett <PBarrett@cliftonpark.org>
Subject: RE: Voice message from 5184828954

Peter Luzzi

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From: Phil Barrett <PBarrett@cliftonpark.org>
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I called her and told her it was FOPB.

-----Original Message-----
From: Matthew Andrus <madrus@cliftonpark.org>


Subject: Voice message from 5184828954
Date: 2022-04-04 09:39:39
From: noreply@vasplan.io
To/Cc: mandrus@cliffonpark.org

1/10/2

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Download
From: mandrus@cliftonpark.org
To/Cc: TMcCarthy@cliftonpark.org

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Tom,

I've just received the attached voicemail. The message makes reference to a political campaign donation for the supervisor.

I do not know why I received the telephone call, only that it was forwarded to me by Pam at the reception desk. I do not know the individual or organization in question that made the call.

I have not responded to the call as it conflicts with prohibited activities as listed in the employee handbook.

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Subject: RE: Voice message from 5184828954
Date: 2022-04-04 10:01:36
Download
From: TMcCarthy@cliftonpark.org
To/Cc: mandrus@cliftonpark.org

[View Message](#) [View Source](#)

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Help

[View Message](#) [View Source](#)

I called her and told her it was FOPB.

-----Original Message-----

From: Matthew Andrus <mandrus@cliftonpark.org>
Sent: Monday, April 4, 2022 9:54 AM
To: Tom McCarthy <TMcCarthy@cliftonpark.org>
Subject: FW: Voice message from 5184828954

Tom,

I've just received the attached voicemail. The message makes reference to a political campaign donation for the supervisor.

I do not know why I received the telephone call, only that it was forwarded to me by Pam at the reception desk. I do not know the individual or organization in question that made the call.

I have not responded to the call as it conflicts with prohibited activities as listed in the employee handbook.

Please advise as to what further action if any I should take. Thank you.

Matthew Andrus
Town of Clifton Park
One Town Hall Plaza
Clifton Park, New York 12065

-----Original Message-----

From: noreply@vaspian.io <noreply@vaspian.io>
Sent: Monday, April 4, 2022 9:40 AM
To: Matthew Andrus <mandrus@cliftonpark.org>
Subject: Voice message from 5184828954

This 28.7-second voice message was deposited in your mailbox from 5184828954 on 04/04/2022 at 09:38:36 AM.

Subject: FYL...
Date: 2022-01-10 10:24:26
Download
From: AStandaert@cliftonpark.org
To/Cc: mandrus@cliftonpark.org

View Attachment View Source

Please proofread

Amy Standaert
Clifton Park Councilwoman
Town of Clifton Park
One Town Hall Plaza
Clifton Park, NY 12065
Cell: 518-881-5419
Office: 518-371-6651

TB Discussion 1-10-2022.docx (19KB)

55
minutes
on
1/10

Everyone is tired of this pandemic. No one is happy to have their lives disrupted by a quarantine order or a positive diagnosis. Rules and restrictions changing at the whim of a career politician's agenda have crippled our economy and our mental health. Making restrictions even less tolerable are elected leaders who impose restrictions on people only to ignore their own rules.

People have grown weary of a "Do As I Say Not As I Do" career politician or a "Rules for Thee But Not for Me" law-maker and this has been especially true during this pandemic. Cuomo, DeBlasio, Pelosi, Newsom, Lightfoot ... and now, Barrett.

Phil, you announced that you tested positive for covid on the morning of Monday January 3rd, yet you remained in Town Hall until later that afternoon. You then showed up at a public event just 3 days later, on Thursday January 6th.

You have imposed mask mandates and other restrictions on our employees and have repeatedly failed to follow your own rules. Not only do I have several reports from employees stating you walk the halls of Town Hall not following your own mask mandate, but I have reports from employees whom you were in close contact with, on Thursday, while covid positive and without a mask.

Elected officials must hold themselves to a higher standard. Your poor judgement, negligence and selfishness has perverted the beneficence of every effort our team has accomplished throughout this pandemic. People have trusted you for over 2 decades. You have officially violated that trust.

On Friday I sent you a letter asking for clarification regarding your positive covid diagnosis. For the sake of every Clifton Park Town Hall employee and resident, you owe us those answers.

Chair of Public Health Advisory Task Force. Creation of full Health department. Vice Chair of Health Committee.

Subject: RE: FYI...
Date: 2022-01-10 11:34:54
From: mandrus@cliftonpark.org
To/Cc: AStandaert@cliftonpark.org

[View Message](#) [View Source](#)

Please take a look at the attached per your request.

• matt

From: Amy Standaert <AStandaert@cliftonpark.org>
Sent: Monday, January 10, 2022 10:24 AM
To: Matthew Andrus <mandrus@cliftonpark.org>
Subject: FYI...

Please proofread

Amy Standaert
Clifton Park Councilwoman
Town of Clifton Park
One Town Hall Plaza
Clifton Park, NY 12065
Cell: 518-881-5419
Office: 518-371-6651

I believe that we can all agree that everyone is tired of this pandemic.

No one wants to have their lives disrupted by a positive COVID diagnosis or quarantine order.

We have seen how rules and restrictions changing at the whim of a career politician's agenda have crippled our economy and devastated our mental. Making restrictions even less tolerable are elected leaders who impose restrictions and policies on their constituents or staff only to ignore their own rules. All at the expense of the social contract.

People have grown weary of a "Do As I Say Not As I Do" career politician or a "Rules for Thee But Not for Me" law-maker and this has been especially true during this pandemic. Cuomo, DeBlasio, Pelosi, Newsom, Lightfoot ... and now, Barrett.

Phil, you have imposed mask mandates and other restrictions on our town employees and yet have repeatedly failed to follow your own rules. I have numerous reports from employees stating that you regularly walk the halls of town hall without a mask. Entering private offices without a mask for extended periods of time all in direct violation of your very own directives.

In 2020, you required that all employees, part-time and full-time, sign an acknowledgement form attesting that, and I quote, "all employees will be expected to self-monitor their health prior to reporting to work each day. If employees feel sick, the employee should notify their supervisor and remain home."

According to earlier press reports, you stated that you started to feel symptoms and tested positive the last week of December. Town employees reported that you continued to come into work that week, while either COVID symptomatic or COVID positive by your own admission. Without wearing a mask, you continued to enter private offices and departments to meet with employees without social distancing. Clearly you should have known and done better.

At our most recent town board meeting, held on January 3, 2022, you informed the board and the public that you had tested positive for COVID that morning. Unclear, is did you have a test that morning and not receive the results until later, because you continued to remain in Town Hall until later that very afternoon.

Only three days later, on January 6, 2022, you appeared at a public event ironically for the distribution of COVID home test kits. You were observed interacting with town employees in close proximity once again without a mask on. All while by your own admission, you were COVID positive.

Your reckless disregard for the safety of the team puts not only our town employees at risk but also the residents who come to town hall every day.

truth and that only begins when you answer their questions. It's time to restore transparency to Town Hall.

01/10/2022

TOWN OF CLIFTON PARK TOWN BOARD

January 10, 2022

The meeting of the Town Board of the Town of Clifton Park was held in the Town Office Building at 7:00 p.m. Supervisor Barrett presiding.

Present: Supervisor Barrett
Councilwoman Flood
Councilwoman Standaert
Councilman Morelli
Councilwoman Walowitz
Town Clerk Brobston

Also Present: Town Attorney McCarthy
Mark Heggen, Comptroller
Matt Andrus, Information Specialist
Daniel Clemens, Director of Buildings, Parks & Recreation
Lou Pasquarell, Director of Safety & Security
Dahn Bull, Highways Superintendent

ANNOUNCEMENTS AND COMMUNICATION

Supervisor Barrett thanked those who helped with the COVID-19 test kit distribution.

Supervisor Barrett thanked Ian Anderson, Atlanta Braves World Championship pitcher, for the recent successful event involving autographs and donations of items benefitting local non-profit organizations.

Supervisor Barrett reminded residents that the ARPA grant funds for non-profits application will be available soon. The application will be available on the cliftonpark.org website.

Supervisor Barrett announced Saratoga County will be the first to begin the COVID-19 Test To Stay Home Program for kids participating in his/her school. More information can be found on saratogacountyny.gov.

Councilwoman Standaert read the following statement:

I believe that we can all agree that everyone is tired of this pandemic.

No one wants to have their lives disrupted by a positive COVID diagnosis or a quarantine order.

We have seen how rules and restrictions changing at the whim of a career politician's agenda have crippled our economy and devastated our mental health. Making restrictions even less tolerable are elected leaders who impose restrictions and policies on their constituents or staff only to ignore their own rules. All at the expense of the social contract.

People have grown weary of a "Do As I Say Not As I Do" career politician or a "Rules for Thee But Not for Me" law-maker and this has been especially true during this pandemic. Cuomo, DeBlasio, Pelosi, Newsom, Lightfoot ... and now, Barrett.

Phil, you have imposed mask mandates and other restrictions on our town employees and yet have repeatedly failed to follow your own rules. I have numerous reports from employees stating that you regularly walk the halls of town hall without a mask. Entering private offices without a mask for extended periods of time all in direct violation of your very own directives.

In 2020, you required that all employees, part-time and full-time, sign an acknowledgement form attesting that, and I quote, "all employees will be expected to self-monitor their health prior to reporting to work each day. If employees feel sick, the employee should notify their supervisor and remain home."

01/10/2022

According to earlier press reports, you stated that you started to feel symptoms and tested positive the last week of December. Town employees reported that you continued to come into work that week, while either COVID symptomatic or COVID positive by your own admission. Without wearing a mask, you continued to enter private offices and departments to meet with employees without social distancing. Clearly you should have known and done better.

At our most recent town board meeting, held on January 3, 2022, you informed the board and the public that you had tested positive for COVID that morning. Unclear, is did you have a test that morning and not receive the results until later, because you continued to remain in Town Hall until later that very afternoon.

Only three days later, on January 6, 2022, you appeared in public, ironically for the distribution of COVID home test kits. You were observed interacting with town employees in proximity once again without a mask on. All while by your own admission, you were COVID positive.

Your reckless disregard for the safety of the team puts not only our town employees at risk but also the residents who come to town hall every day.

Elected officials must hold themselves to a higher standard. Your repeated poor judgement, negligence and selfishness has perverted the beneficence of every effort our team has accomplished throughout this pandemic. People have trusted you for over 2 decades. You have officially violated that trust.

On January 7, 2022, I sent you a letter asking for clarification regarding your positive covid diagnosis due to the significant discrepancies in your statement to the Town Board on January 3rd and statements that you have given to the media.

Concerned residents and town employees are asking for answers, and you are the only one that can provide them. The discrepancies and questions need to be addressed to restore confidence and trust in the office of the town supervisor. Therefore, on behalf of the residents of Clifton Park and all Town of Clifton Park employees, I once again publicly request that you address them.

Specifically: When exactly was the onset of your symptoms?

Did you self-isolate?

When did you take your first covid test?

Was the January 3, 2022, rapid test results your first positive test result?

If you took the test the morning of January 3, why were you at Town Hall?

For purposes of contact tracing which Town Hall employees came into close contact with you 2 days prior to the onset of your symptoms?

Did you notify any Town Hall employees that you tested positive?

Did you notify Saratoga County Public Health Services of your positive test result as required and if so, when?

Did you receive isolation orders from New York State Department of Health or Saratoga County contact tracers?

Before returning to work from isolation did you provide a release from the Department of Health which has been required from all town employees who have previously tested positive for COVID during the pandemic?

01/10/2022

Elected officials are not above the people they represent. They are called upon to be public servants. As such, public servants should be straight forward, not evasive, and honest in their dealings with them. The residents of Clifton Park and our town employees deserve to know the truth and that only begins when you answer their questions. It's time to restore transparency to Town Hall.

Supervisor Barrett stated that he has and will continue to follow all applicable protocols and continue to lead our team providing vital services to our community as I have leading from the front throughout the entire pandemic. I'm not going down this rabbit hole with you. That would be just a fool's errand. But, when you were waiting in line to pick up a test kit, with a couple thousand other Clifton Park residents that came through to get a test kit that day, you saw exactly where I was stationed, far away from everybody in the parking lot and that was done so there wouldn't be any question as to where I was during the event and was I near anybody etc. So, I was in the parking lot by myself. A couple thousand people came through and saw people from the press who were there for a good portion of the event as well as our team. So you can take pictures of me or anyone else next to their vehicle 50+ feet away from anyone and use them for cheap political set-up. That's your unfortunate choice. You are correct about one thing in your statement, I have built up a tremendous amount of trust in the town and with the residents of Clifton Park over two decades. We've worked very hard to improve our town and provided exemplary services to our residents and we have been successful in doing that and that's why that trust has been established and built up over a long period of time. But I and many other team members here do not have the luxury of picking and choosing when we get involved and when COVID gets bad we just hide. We need to be on the job each day, in person because of the nature of the services we provide. And during the pandemic we have expanded services quite a bit which requires further commitment, not only from the elected officials but from our team. So again, I do want to thank our team for their work last week and the continued hard work during the pandemic. Throughout the pandemic we continue to deal with internal cases of exposures and positive COVID tests and working to analyze and review each and every one of those situations has taken a tremendous amount of effort and our team has done a very good job and I think that's clear in the lack of community spread within most departments. But we don't announce an employee's name when they are positive. So if an employee in one of the departments test positive, I don't come to a Town Board meeting or put out a memo to all the employees that so and so tested positive for COVID. However, when I did I announced it here at a Town Board meeting so everyone would be aware. So, I have been transparent from the very beginning and following all protocols and will continue to do so. And that's about all I have to say about that.

Councilwoman Walowit questioned as far as following protocol, I think we would be protecting our citizens all along but we have always all along knew that people had to stay home inside and tracers even track that to be sure they are home and inside that they were supposed to be isolated at least 5 days now. So the question is, why did you go out anyway and did you notify the two people that you had direct contact with while you were there in your car feet away from the event. Also, I am really concerned about the staff since you were here Monday because they come in contact with our citizens so anybody you had contact with Monday might have also had contact with someone who came in to pay taxes or to see Teresa or do other business within the town. So I would be concerned if you did not contact each one of those employees. And also I think that there are times that our magnificent staff is perfectly willing and capable of running this place without us. And I don't think given email and phones that we really don't need to be on hand especially if we have a contagious disease.

Councilwoman Flood also commented that if you announced to us on Monday that you were positive, why four days later you were out in the public. Every person in the USA had to hunker down in their bedrooms and not move for five days.

Supervisor Barrett stated that he did hunker. Suggested reading up on the protocols.

Councilwoman Walowit complimented the Highways Superintendent and crew jobs during the recent bad weather.

Supervisor Barrett thanked Deputy Supervisor Morelli for participating in the kit distribution.

01/10/2022

Councilman Morelli stated he understands his colleagues' questions, but not sure he agrees with them, but in regard to the event if we do it again it might be worthy of a conversation around the traffic flow and pattern going forward for improvement. He doesn't want it to get lost in the public about how successful the event was. As everyone knows, the virus is prevalent in the state and country and these kits are key to us moving forward. Kits are important to him personally for his family. He stated he was at the event and cleared his schedule to make himself available. He doesn't know when the Supervisor first had symptoms and what he did earlier in the week and when he was in Town Hall, but I do know what he did that day relative to that event and he was nowhere near any of our residents. He was in fact in the middle of that parking lot, and I don't want this conversation to over shadow the success of that event. I saw in the press the optics don't look good, but I know for a fact that the Omicron virus does not look at optics and it doesn't weight in on political ambitions, the tests are important.

Councilwoman Standaert stated with all due respect Councilman Morelli, this was not an event, this was a distribution in the middle of a pandemic. There were a lot of residents who were frightened. A lot of residents who do not want to be exposed in any way shape or form, whether Omicron is less deadly than what we saw a year ago, this does not make people comfortable. I have had two reports from employees who you (looking to Phil) came into close contact with that day and you are not going to answer any questions to verify whether you were cleared by the DOH or Saratoga County DOH?

Discussion ensued.

RESOLUTIONS

No one wished to be heard.

Resolution No. 14 of 2022, a resolution authorizing the purchase of mowing and trail grooming equipment for use by the Buildings and Grounds Department.

Introduced by Councilwoman Standaert, who moved its adoption, seconded by Councilman Morelli.

WHEREAS, Daniel Clemens, Director of Buildings, Parks, and Recreation, has requested authorization to purchase new equipment for use by the Buildings & Grounds Department, and

WHEREAS, Mr. Clemens has recommended that the Town Board approve the purchase of 1 Toro 5910, 1 Toro Z Master 3000 with bagger, and 1 Dingo TX1000 power rake, and 1 Toro Greensmaster 3150-Q from Grassland Equipment & Irrigation Corp., 892-898 Troy-Schenectady Road, Latham, be purchased for the amounts listed below and on the attached quotes, under New York State Contract PC68896, Group 40625 Heavy Equipment, Award PGB-22792 for a total not to exceed \$204,759.74; now, therefore, be it

RESOLVED, that the Clifton Park Town Board hereby authorizes the purchase of the 4 specified pieces of mowing and grooming equipment from Grassland Equipment & Irrigation, as described in the attached documents, at a total cost not to exceed \$204,759.74, under State Contract PC68896, to be paid for by a municipal lease from the following accounts:

Toro 5910 from A-07112-00145 (Clifton Common - Lease Payments) \$112,750.00

Toro Z Master from A-07110-00145 (Buildings & Grounds - Lease Payments)
\$17,641.18

Dingo TX1000 from A-07629-00145 (Trails Contractual - Lease Payments)
\$45,542.10

Toro Greensmaster from A-07190-00145 (Golf Course - Lease Payments)
\$28,826.46

01/10/2022

ROLL CALL VOTE

Ayes: Councilwoman Flood, Councilwoman Standaert, Councilman Morelli,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 15 of 2022, a resolution authorizing the purchase of 1 Jacobsen mower for use by the Buildings & Grounds Department from an existing Massachusetts State Contract # FAC116.

Introduced by Councilwoman Standaert, who moved its adoption, seconded by Councilwoman Flood.

WHEREAS, after assessing the needs of the Buildings & Grounds Department, Daniel Clemens, Director of Buildings, Parks & Recreation, has recommended the purchase of 1 Jacobsen HR-700 mower for use throughout town, per the attached, and

WHEREAS, the prices quoted are extended from the Massachusetts State award, under the provisions of New York State General Municipal Law Section 103 of the General Municipal Law, which allows one municipality to utilize existing contracts of another municipality as long as that contract was pursuant to competitive bidding consistent with state law and made available for use by other government entities, and

WHEREAS, General Municipal Law Section 103(16), has been amended to allow the extension of equipment configurations and awarded pricing discounts to all political subdivisions in New York State, based upon qualified bid responses to a municipal entity with notice, and

WHEREAS, after reviewing the options available, Daniel Clemens has recommended that the pricing from MTE Solutions, 10 Green Mountain Drive, Cohoes, NY, be accepted for an amount of \$81,159.54; now, therefore, be it

RESOLVED, that the Buildings & Grounds Department is authorized to purchase 1 Jacobson HR-700 mower, as per the attached Schedule A, from MTE Solutions in Cohoes, NY; and be it further:

RESOLVED, that the Clifton Park Town Board hereby authorizes the purchase under Massachusetts State Contract #FAC116, in an amount not to exceed \$81,159.54, to be paid through a municipal lease.

ROLL CALL VOTE

Ayes: Councilwoman Flood, Councilwoman Standaert, Councilman Morelli,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 16 of 2022, a resolution authorizing the purchase of two 2022 Chevrolet 2500HD pickup trucks with snowplows for use by the Buildings & Grounds Department from an existing New York State mini bid.

Introduced by Councilwoman Walowit, who moved its adoption, seconded by Councilwoman Standaert.

WHEREAS, after assessing the needs of the Buildings & Grounds Department, Daniel Clemens, Director of Buildings, Parks, and Recreation, has recommended the purchase of 2 Chevy pickup trucks for use by the department, per the attached, and

01/10/2022

WHEREAS, the prices quoted are extended from NYS Mini Bid 1379 OGS Solicitation 23166, under the provisions of New York State General Municipal Law Section 103 of the General Municipal Law which allows one municipality to utilize existing contracts of another municipality as long as that contract was pursuant to competitive bidding consistent with state law and made available for use by other government entities, and

WHEREAS, General Municipal Law Section 103(16) allows the extension of equipment configurations and awarded pricing discounts to all political subdivisions in New York State based upon qualified bid responses to a municipal entity with notice, and

WHEREAS, after reviewing the options available, Mr. Clemens has recommended that the pricing from Denooyer Chevrolet, 127 Wolf Road Albany, NY, be accepted for a total amount not to exceed \$100,812; now, therefore, be it

RESOLVED, that the Buildings & Grounds Department is authorized to purchase two 2022 Chevrolet pickup trucks with snowplows, as per the attached Schedule A, from Denooyer Chevrolet Inc.; and be it further

RESOLVED, that the Clifton Park Town Board hereby authorizes the purchase under NYS Mini Bid OGS Solicitation #23166, in an amount not to exceed \$100,812, to be paid through a municipal lease.

ROLL CALL VOTE

Ayes: Councilwoman Flood, Councilwoman Standaert, Councilman Morelli,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 17 of 2022, a resolution authorizing the Supervisor to sign an amendment to the Administrative Services Agreement between the Town of Clifton Park and MassMutual for the employees' deferred compensation plan.

Introduced by Councilwoman Standaert, who moved its adoption, seconded by Councilman Morelli.

WHEREAS, the Town of Clifton Park is a local public employer, who has adopted a deferred compensation plan pursuant to Section 5 of the New York State Finance Law, and

WHEREAS, the purpose of such plan is to provide employees with a convenient and tax-favored method of saving on a regular and long-term basis, and thereby provide for their retirement, and

WHEREAS, by Resolution No. 256 of 2021, the Town Board awarded a five-year renewal agreement with MassMutual, in conjunction with Empower Retirement, to administer this plan under procedures set forth by the New York State Deferred Compensation Board, and

WHEREAS, MassMutual has informed the Town that numerous investment options will be changed, per Exhibit C, effective in February 2022, and

WHEREAS, MassMutual has also informed the Town that it will offer Managed Account Services through Great-West Trust Company, at no cost, to the Town, and

WHEREAS, the proposals were reviewed by The Deferred Compensation Committee which recommended that the agreements be accepted; now, therefore, be it

RESOLVED, that the Supervisor is hereby authorized to sign an amendment to its contract with Empower Retirement, in conjunction with Great-West Trust Company as Trustee; and be it further

01/10/2022

RESOLVED, that the Supervisor is also authorized to sign an agreement for Managed Account Services with Envestnet Retirement Solutions, LLC.

ROLL CALL VOTE

Ayes: Councilwoman Flood, Councilwoman Standaert, Councilman Morelli,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 18 of 2022, a resolution authorizing the Comptroller to transfer funds for the Town Historian.

Introduced by Councilman Morelli, who moved its adoption, seconded by Councilwoman Standaert.

WHEREAS, John Scherer, Town Historian, has requested funds to acquire certain specialized storage items for archival materials, and

WHEREAS, Mr. Scherer has provided an estimate for specially treated and configured items for the keeping and storage of artifacts in the amount of \$5,700, and

WHEREAS, the Town Board supports the proper treatment and storage of archival items of historic significance; now, therefore, be it

RESOLVED, that the Comptroller is authorized to transfer the sum of \$5,700 from A-01990-00015 (Contingency Funds – Other Contractual) to A-07510-00200 (Town Historian – Equipment); and be it further

RESOLVED, that the Town Historian, working through the office of Parks & Recreation, will obtain quotes for any materials or supplies to be purchased.

ROLL CALL VOTE

Ayes: Councilwoman Flood, Councilwoman Standaert, Councilman Morelli,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 19 of 2022, a resolution scheduling a public hearing on a proposed amendment to the Eagle Crest Plantation Planned Development District (PDD) zoning for the Players Park property on New York State Route 146A.

Introduced by Councilwoman Standaert, who moved its adoption, seconded by Councilwoman Flood.

WHEREAS, on September 30, 2021, Sportsplex of Halfmoon, Inc. filed an application for amendments to the Eagle Crest Plantation PDD to provide for a project to construct an indoor/outdoor sports facility, to include a synthetic turf indoor field, outdoor field, and small turf practice facility, and

WHEREAS, on November 15, 2021, the Town Board received a presentation from Paul Rogan, owner of Sportsplex of Halfmoon in support of the project, and by Resolution No. 260 of 2021, the Town Board referred the matter to the Planning Board for their review and advisory recommendation, and

01/10/2022

WHEREAS, on December 21, 2021, the Planning Board returned the project to the Town Board without recommendation, and

WHEREAS, due to the potential public participation at this public hearing, the Town Board meeting will take place at the Clifton Park Senior Community Center to accommodate for more space required per social distancing guidelines due to state requirements, and

WHEREAS, the Town Board wishes to solicit input on the project from members of the public; now, therefore, be it

RESOLVED, that a public hearing is scheduled for February 14, 2022, at 7:05 pm at the Clifton Park Senior Community Center, located at 6 Clifton Common Ct., Clifton Park, NY; and be it further

RESOLVED, that a complete narrative with schematic drawings is available on the Town's website at <https://cliftonpark.org/government/legal-notices.html>, and from the office of the Town Clerk and comments regarding this public hearing can be directed to Town Clerk Teresa Brobston at tbrobston@cliftonpark.org.

Clerk's Note: Resolution includes amendments approved by the Town Board to move the location of the Town Board meeting for February 14, 2022, to the Senior Community Center and comments directed to Town Clerk Brobston email.

ROLL CALL VOTE

Ayes: Councilwoman Flood, Councilwoman Standaert, Councilman Morelli,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

Resolution No. 20 of 2022, a resolution authorizing acceptance of depreciation estimates from Selective Insurance for the fire loss in the Highway Department, and authorizing preparations for demolition and replacement of the "White Building".

Introduced by Councilwoman Standaert, who moved its adoption, seconded by Councilwoman Walowit.

WHEREAS, on August 17, 2021, an accidental fire occurred and caused severe damage to the facility locally known as the "White Building", which was used primarily by the Highway Department, and

WHEREAS, the "White Building" was insured against property, fire and casualty losses through Selective Insurance Policy # S1801921, which includes replacement value coverage for the structure, and

WHEREAS, the "White Building" housed various pieces of equipment and machinery, a woodshop, 7 bays for plow trucks over the winter months, as well as storage for several departments, and

WHEREAS, Selective Insurance has estimated a recoverable depreciation amount for the damaged structure in the amount of \$69,330.97, and

WHEREAS, the Highway Department has outgrown its current facilities through a growing community, and expansion in responsibilities, while developing shared services throughout town, and the Town Board supports the design and construction of replacement facilities utilizing proceeds from the Selective Insurance fire loss claim, and

01/10/2022

WHEREAS, through Resolution No. 225 of 2021, Prime AE Engineering has been employed to assist the Highways Superintendent in the design and construction of a permanent awning, as well as assisting in the planning and documentation of losses to support the relevant insurance claims; now, therefore, be it

RESOLVED, that the Town Board finds that it is not economic to repair the damaged structure, and that it is in the best interest of the Town to demolish and replace the "White Building", and be it further

RESOLVED, that the Town Board authorizes the Superintendent of Highways Dahn Bull, to continue working with Prime AE Group of New York in the demolition of the "White Building" and design of a new facility, and be it further

RESOLVED, that Prime AE Group of New York, will continue to work at the contractual rates that have been previously adopted by the Town Board through Resolution No. 1 of 2022, with expenditures to be drawn from the insurance proceeds, and be it further

RESOLVED, that the Superintendent of Highways is authorized to notify Selective Insurance of the Town's intent to accept Selective Insurance's estimate of recoverable depreciation of \$69,330.97 and to request those funds when contracts to replace the damaged structure are awarded; and be it further

RESOLVED, that the Superintendent of Highways is hereby authorized to begin planning, designing, and preparing bid documents for the construction of a new, modern garage facility for the Highway Department, to be relocated on Highway Department property.

Supervisor Barrett questioned Highways Superintendent Bull if a public adjustor was engaged?

Superintendent Bull stated they worked with Prime Engineering for their estimates and what it would take to repair the building.

ROLL CALL VOTE

Ayes: Councilwoman Flood, Councilwoman Standaert, Councilman Morelli,
Councilwoman Walowit

Noes: Supervisor Barrett

DECLARED ADOPTED

Resolution No. 21 of 2022, a resolution establishing a comprehensive deer public/private management assessment group in the Town of Clifton Park

Introduced by Councilwoman Flood, who moved its adoption, seconded by Councilwoman Walowit.

WHEREAS, on October 18, 2021, the Town Board held a public hearing to discuss changes to allowable activities in nature preserves, town parks, and lands otherwise managed by the Town, and

WHEREAS, during the public hearing, town residents spoke encouraging the Town to undertake a comprehensive deer public / private land management assessment of its lands with the New York State Department of Environmental Conservation and public participation with interested parties before moving forward, and

WHEREAS, the abundance of deer, in large parts of the State including Clifton Park, is causing increasing problems such as deer-vehicle collisions, damage to landscaping plants, diseases carried by ticks that feed on deer, all while threatening the long-term viability of forest ecosystems, and

01/10/2022

WHEREAS, the New York State Department of Environmental Conservation recommends approaching deer management at a community level, rather than as individuals, and

WHEREAS, the New York State Department of Environmental Conservation has long been studying the issue of deer management across the state in conjunction with Cornell University, and

WHEREAS, the New York State Department of Environmental Conservation, over the decades, has worked successfully with local governments to develop and implement deer management plans, and

WHEREAS, the New York State Department of Environmental Conservation has created several handbooks to guide communities in developing their own deer management plan, and

WHEREAS, the New York State Department of Environmental Conservation has historically worked with local government and communities to establish management plans that take into account all considerations from the community, and

WHEREAS, numerous localities in New York State, including the City of Albany (Albany County), Town of East Hampton (Suffolk County), Town of Erwin (Steuben County), and the Town of Irondequoit (Monroe County), have implemented successful bow hunting programs on public lands that are held up as models for the nation, and

WHEREAS, the State of New York allows controlled hunting programs in state forest lands, located within the boundaries of the Town of Clifton Park, and state parks within short driving distances; now, therefore, be it

RESOLVED, that said comprehensive deer management assessment group shall be chaired by Councilwoman Amy Flood, with further membership comprised of Councilman Anthony Morelli and representatives as available from the New York State Department of Environmental Conservation, New York State Canal Corporation, Friends of the Mohawk-Hudson Bike Trail, the local sportsmen community, and other interested parties as deemed necessary to the discussion, and be it further

RESOLVED, that the Town Attorney's Office will provide staff support as necessary, and legal advice as appropriate, and be it further

RESOLVED, that the assessment group utilize the New York State Department of Environmental Conservation Community Deer Management Guide, 2018 Deer Management in Urban and Suburban New York Report, and Management Plan for White-Tailed Deer in New York State 2021-2030, as guides in its deliberations; and be it further

RESOLVED, that the assessment group research and study the work being done relative to deer management, in particular, limited and controlled deer bow-hunting on public lands in Albany, East Hampton, Erwin, and Irondequoit.

ROLL CALL VOTE

Ayes: Councilwoman Flood, Councilwoman Standaert, Councilman Morelli,
Councilwoman Walowit, Supervisor Barrett

Noes: None

DECLARED ADOPTED

PUBLIC PRIVILEGE

Tammy Morley, Heidis Path, questioned how the residents were made aware of the test kit giveaway?

Supervisor Barrett stated a press release through normal channels/platforms that the Town uses. They tried to get it out to as many people and as quickly as possible.

01/10/2022

Carl Springel, Appleton Road, stated he disagrees with setting up a committee to determine how he can hunt on his own land.

Ingrid Hahn, Waite Road, expressed concerns about the Eagle Crest Golf PDD amendments and the residents' ability to express their comments if they cannot attend in person. She suggested encouraging comments to be emailed.

Supervisor Barrett proposed to relocate the Town Board meeting scheduled for February 14, 2022, to the Senior Center for the ability to space out the residents. Comments can be sent in by email or handwritten.

Supervisor Barrett moved, seconded by Councilman Morelli to amend Resolution No. 19 of 2022 to relocate the Town Board meeting to the Clifton Park Senior Community Center and include the Town Clerk's email address for comments on the public hearing to be sent to.

ROLL CALL VOTE

Ayes: Councilwoman Flood, Councilwoman Standaert, Councilman Morelli,
Councilwoman Walowit, Supervisor Barrett

Noes: None

MOTION unanimously approved.

MOTION BY Councilwoman Walowit, seconded by Councilman Morelli to adjourn the meeting to the next regular meeting or any other meeting necessary for the conduct of town business.

Motion carried at 8:20 PM

Teresa Brobston
Town Clerk

Date	Time	From	Dialed	Target	Answer	Length	Status
1/7/2022	17:08:33 EDT		-242 (8) 881-		External	0:10:24	dialed
1/7/2022	16:32:39 EDT		-242 (8) 881-		External	0:07:59	dialed
1/7/2022	15:49:21 EDT		-242 (8) 881-		External	0:07:54	dialed
1/7/2022	15:08:15 EDT		-242 (8) 881-		External	0:10:28	dialed
1/7/2022	14:57:05 EDT		-242 (8) 881-		External	0:01:50	dialed
1/7/2022	14:54:21 EDT		-245	-242	242 Voice Mail	0:00:03	redirected
1/7/2022	14:45:06 EDT		-246	-242	242	242	0:02:15 answered
1/7/2022	14:44:44 EDT		-242	-245	245 Voice Mail	0:00:01	dialed
1/7/2022	14:42:53 EDT		-242 (8) 207-4801		External	0:01:18	dialed
1/7/2022	13:23:34 EDT		-242 (8) 881-		External	0:21:54	dialed
1/7/2022	12:48:09 EDT	(518) 608-	(518) 371-6651	616	242	0:01:10	answered
1/7/2022	10:57:00 EDT		-242 (8) 881-		External	0:00:03	dialed
1/7/2022	10:32:07 EDT		-242 (8) 881-		External	0:20:48	dialed
1/7/2022	10:02:54 EDT		-245	-242	242	242	0:15:09 answered
1/7/2022	09:35:36 EDT		-242 (8) 881-		External	0:02:29	dialed
1/7/2022	09:32:07 EDT		-242	-201	201	201	0:00:40 dialed
1/7/2022	09:31:06 EDT		-201	-242	242 Voice Mail	0:00:37	redirected
1/7/2022	09:29:48 EDT		-208	-242	242	242	0:02:07 answered
1/7/2022	09:24:47 EDT		-242 (8) 881-		External	0:04:54	dialed

January 7. 90^T minutes to letter
to PRSS.

Subject: As discussed
Date: 2022-01-07 16:35:25
Download
From: AStandaert@cliftonpark.org
To/CC: mandrus@cliftonpark.org

[View Message](#) [View Source](#)

Hi Matt,

Please proof read for me. Thank you.

Amy Standaert
Clifton Park Councilwoman
Town of Clifton Park
One Town Hall Plaza
Clifton Park, NY 12065
Cell: 518-881-5419
Office: 518-371-6651

[Letter to Phil Barrett 1-7-2021.docx \(1.6MB\)](#)



Amy JH Standaert

Councilwoman

Town of Clifton Park

One Town Hall Plaza, Clifton Park, NY 12065

Office: 518-371-6651 | Cell: 518-881-5419 | astandaert@cliftonpark.org

January 7, 2022

VIA EMAIL

Phil Barrett
Town Supervisor
One Town Hall Plaza
Clifton Park, NY 12065

Dear Phil,

At the Monday January 3, 2022, Town Board meeting you declared your absence was "due to a positive rapid covid test this morning..." On Wednesday, January 6, 2022, at approximately 1:00pm, I witnessed you standing in the parking lot of the Senior Center, without a mask, during our Covid testing kit giveaway. Initial media reports stated that you had started to feel sick and subsequently tested positive for covid last week. There are dangerous discrepancies in these statements that must be addressed. Therefore, on behalf of all Town of Clifton Park employees and Clifton Park residents, I expect you to clarify your illness.

I have confirmation from multiple town hall employees that you were in the building on Monday, January 3, 2022. I have confirmation from multiple employees that you were in Town Hall at various times, during the week of December 27-30. To ensure our employees are aware and safe, we must know the facts of your illness.

- When exactly was the onset of your symptoms?
- Did you self-isolate?
- When did you take your first covid test?
- Was the January 3, 2022, rapid test result your first positive test result?
- If you took the test the morning of January 3, why were you at Town Hall?
- Which Town Hall employees came into close contact with you 2 days prior to the onset of your symptoms?
- Did you notify any Town Hall employees that you tested positive?
- Did you notify Saratoga County Public Health Services of your positive test result?
- Did you receive isolation orders from New York State Department of Health or SCPHS contact tracers?
-

According to the Centers for Disease Control, New York State Department of Health and Saratoga County Public Health,

Sincerely,



Amy JH Standaert

Councilwoman

Town of Clifton Park

One Town Hall Plaza, Clifton Park, NY 12065

Office: 518-371-6651 | Cell: 518-881-5419 | astandaert@cliftonpark.org

Amy JH Standaert
Clifton Park Councilwoman


Cc: Saratoga County Board of Supervisors

Subject: per your request
Date: 2022-01-27 17:05:20
From: mandux@cliftonpark.org
To/Cc: ASiandaert@cliftonpark.org

[View Message](#)

[View Source](#)

attached

 Letter to Phil Barrell 1-7-2021.docx (1.6MB)



Amy JH Standaert

Councilwoman

Town of Clifton Park

One Town Hall Plaza, Clifton Park, NY 12065

Office: 518-371-6651 | Cell: 518-881-5419 | astandaert@cliftonpark.org

January 7, 2022

VIA EMAIL

Phil Barrett
Town Supervisor
One Town Hall Plaza
Clifton Park, NY 12065

Dear Phil,

At the Monday January 3, 2022, Town Board meeting you declared publicly via telephone that your absence was "due to a positive rapid covid test this morning..."

On Wednesday, January 6, 2022, at approximately 1:00pm, I witnessed you standing in the parking lot of the Senior Center, without a mask, during our Covid testing kit giveaway. Initial media reports stated that you told individuals present at the event that you had started to feel sick and subsequently tested positive for covid the week before. There are significant discrepancies in your statement to the Town Board on January 3rd and follow up statements that you gave to the media on January 6th.

Specifically, I have received confirmation from multiple town hall employees that you were present in the building on Monday, January 3rd and during the previous week of December 27th to 30th. During that time, town staff repeatedly witnessed you walking the halls and entering offices for conversations without a mask and in direct contradiction to your own directive to town employees. This alone would be cause for concern, but if you were already symptomatic, awaiting tests, or had tested positive it shows an alarming lack of disregard for the safety of others around you.

I have been contacted by concerned residents and town employees who are asking for answers, and you are the only one that can provide them. The discrepancies and questions need to be addressed to restore confidence and trust in the office of the town supervisor. Therefore, on behalf of the residents of Clifton Park and all Town of Clifton Park employees, I request that you publicly address them.

Specifically: When exactly was the onset of your symptoms?

Did you self-isolate?

When did you take your first covid test?

Was the January 3, 2022, rapid test results your first positive test result?

If you took the test the morning of January 3, why were you at Town Hall?



Amy JH Standaert

Councilwoman

Town of Clifton Park

One Town Hall Plaza, Clifton Park, NY 12065

Office: 518-371-6651 | Cell: 518-881-5419 | astandaert@cliftonpark.org

For purposes of contact tracing which Town Hall employees came into close contact with you 2 days prior to the onset of your symptoms?

Did you notify any Town Hall employees that you tested positive?

Did you notify Saratoga County Public Health Services of your positive test result as required and if so, when?

Did you receive isolation orders from New York State Department of Health or SCPHS contact tracers?

Before returning to work from isolation will you provide a release from the Department of Health which has been required of from all town employees who have previously tested positive for COVID during the pandemic?

I would appreciate your immediate response. If you choose not to answer, I will bring my questions directly before the people at the next public meeting of the Town Board, currently scheduled for Monday, January 10, 2022.

Sincerely,

Amy JH Standaert
Clifton Park Councilwoman

cc: Clifton Park Town Board
Saratoga County Board of Supervisors
Times Union Newspaper
Daily Gazette Newspaper
Saratogian Newspaper
WAMC Public Radio
WNYT Television
WRGB Television
WTEN Television

AGREEMENT AND GENERAL RELEASE

This Agreement and General Release (herein the "Agreement") is made as of this 17th day of October, 2022, by and between the Town of Clifton Park (herein the "Town"), with a business address at 1 Town Hall Plaza, Clifton Park, New York 12065, and Matthew Andrus (hereinafter "Employee"). The parties to this Agreement do hereby agree that:

WHEREAS, employee is employed as an Information Specialist for the Town;
and

WHEREAS, on April 27, 2022, employee was served with a Notice of Discipline, (NOD) which is incorporated herein, to which employee served an answer denying the charges and requested a hearing; and

WHEREAS, on May 3, 2022, you were served with another Notice of Discipline, (NOD) which is incorporated herein, to which employee served an answer denying the charges and requested a hearing, and

WHEREAS, a Hearing Officer was duly appointed to preside over the charges contained within the April 27, 2022 NOD and render Findings of Fact and a Penalty Recommendation; and

WHEREAS, on October 12, 2022, a hearing was imminent with Hearing Officer Carolyn George; with witnesses and a stenographer in attendance, and

WHEREAS, the parties hereto wish to settle and resolve this matter without proceeding further with formal hearings.

NOW, as and for a complete Agreement, the parties hereto agree as follows:

1) **Resignation.** Employee agrees to submit, forthwith, an irrevocable letter of resignation from Town employment, effective as of January 10, 2023 and Employee acknowledges that if he does not resign by January 10, 2023, he will be terminated effective the following day. The Town agrees to employ Employee until January 10, 2023, and has placed the employee on paid administrative leave until that date, with full benefits, salary and salary adjustments as if he were still employed. Employee shall not accrue additional Leave with pay or sick time during the period of paid leave.

2) **Duties.** Employee will be on paid administrative leave through January 10, 2023 and will not be expected to perform his job duties or responsibilities during this time.

3) **Charges.** Employee withdraws his defenses and challenges to the Notices of Discipline, dated April 27, 2022, and May 3, 2022.

4) **General Release of Claims Against the Employer.** In consideration of the compensation and other consideration and covenants of the Town set forth in this Agreement, the Employee agrees to release Employer from any and all existing, pending or potential claims and causes of action arising out of his employment with the Town up to the date of this Agreement. Employee shall voluntarily release and forever discharge on behalf of himself dependents, heirs, assigns, executors, administrators, agents, employees, or other representatives, the Town, its Board members, officers, employees and agents, both individually and in their

official capacities with the Town, from any and all past or presents claims, demands, rights, causes of action, judgments, executions, damages, liabilities, and costs or expenses, including attorneys' fees, which Employee now has or may have by reason of any matter or cause arising out of Employee's employment or cessation of employment with the Town, except as prohibited by law, and Employee further agrees not to accept any relief, award or damages. This complete and unlimited release includes, but is not limited to, claims arising under contract (express or implied), public policy, or tort law, Sections 1981 through 1988 of Title 42 of the United States Code, Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Age Discrimination in Employment Act of 1967, the Family and Medical Leave Act of 1993, as amended, the Fair Labor Standards Act, the Occupational Safety and Health Act, the Americans With Disabilities Act, the Employee Retirement Income Security Act of 1974, the National Labor Relations Act, the New York Human Rights Act, or any other federal, state or local law or ordinance. The Employee acknowledges receipt of all rights and benefits available under the Family and Medical Leave Act of 1993, as amended.

- (a) Employee acknowledges and agrees that the release and waiver is part of an Agreement between him and the Town and is written so that he understands it;
- (b) This release and waiver will go into effect on October 17, 2022, provided the Town has complied with the terms and obligations set forth within this Agreement. If the Town does not comply with its obligations, the release and waiver found within shall be deemed null and void;
- (c) Employee does not waive any rights or claims that may arise after January 10, 2023;
- (d) In exchange for this release and waiver, Employee received consideration that is more valuable than that to which he is already entitled;
- (e) The Town hereby advises Employee to consult with an attorney prior to executing this Agreement;
- (f) Employee has been given a period of at least twenty-one (21) days, specifically the period up to and including October 17, 2022, to consider this Agreement and the release and waiver of any claims for violations of the ADEA;
- (g) Employee may revoke this Agreement within seven (7) days after signing it, and this Agreement with respect to the release of the ADEA will not become effective or enforceable until the eighth (8) day following its execution. The revocation must be in writing to the Employee to the attention of Earl T. Redding, Esq., 13 Columbia Circle, Albany, NY 12203 and must be received by the Town no later than the close of business on the seventh day after Employee signs this Agreement;

(h) In the event Employee exercises his right under the ADEA to revoke the Agreement with regard to the release of any ADEA claims, this Agreement in its entirety becomes null and void. It is agreed and understood that consideration shall not inure to Employee prior to the eighth day.

5) No Claims Filed. The Employee affirms that he has not caused or permitted to be filed, any charge, complaint or action before any federal, state, or local administrative agency or court against the Employer. Employee further affirms that he will not cause or permit to be filed any charge, complaint or action before any federal, state, or local administrative agency or court against Employer that he was subject to retaliation as a result of entering into this Agreement and General Release.

6) EEOC Claims. Employee filed charges with the Equal Employment Opportunity Commission (the "EEOC"), which are pending as Charge Nos. 525-2021-00293 and [525-2021-00716]. Employee agrees to request a withdrawal of the Complaints and further agrees that he shall not file or pursue any lawsuit in connection with these claims, nor any claims of retaliation relative to such claims.

7) Non-Disparagement. Each party agrees not to take any action or make any statement which is disparaging of the other, its officers, employees or services. The Employer agrees to respond to any inquiries it receives from prospective employers, but will only respond to verify dates of employment, job title and salary inquiries. Said inquiries to be directed to the Town's Office of the Comptroller for response. No other information, including positive or negative references, will be released by the Employer. In the event Employee violates this paragraph, he shall be liable to Employer for any payment made herein, costs, attorneys' fees and any other damages determined by a court of competent jurisdiction.

8) Employer Property. Employee agrees to return any and all property of the Town, whether tangible or proprietary, which has been given or afforded to Employee while employed by the Town. This property shall include, but not be limited to, keys, cards, computers and hard-drives, and electronic devices, as well as any and all credentials, passwords and the like for all Town website and social media accounts.

9) Apology. Employee agrees to submit separately a written letter of apology to the Town Board for his activities in involving himself in Town Board politics and attempting to factionalize the Town Board by purporting to subvert one Town Board member against another while he was employed by and utilizing Town time, equipment, communications systems and the like. Employee apologizes if these actions violated Town Policy or procedures as they were not within his job responsibilities. The letter may be reviewed by the Board in Executive session, and will become a part of the employee's confidential personnel file and be treated as such.

10) No Consideration Absent This Agreement. Each party acknowledges that he or it would not have received the compensation and other consideration (including release) set forth in this Agreement but for his or its execution of this Agreement and promise to abide by its terms.

11) Representation. Employee acknowledges that he is aware of his rights pursuant to the Civil Service Law and of his rights to hearings on the charges and does hereby knowingly waive his right to have the disciplinary charges determined in accordance with the Civil Service Law. Employee agrees that he has entered into this Agreement freely and without any coercion after being afforded the opportunity of representation. Employee acknowledges that he has been afforded legal representation during the negotiations and preparation of this Agreement by his Attorney and has been afforded every opportunity to consult with a lawyer, which he did.

12) Amendment. This Agreement may not be modified, altered or changed except upon express written consent of both parties.

13) Execution in Counterparts. This Agreement may be executed in one or more counterparts but all such counterparts, including facsimile or electronic copies, shall together constitute but one and the same instrument.

14) Controlling Law. This Agreement shall be interpreted in accordance with the laws of the State of New York, no matter where it may come up for enforcement. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the parties.

15) Acknowledgement of Full Consent. Each party hereto acknowledges the execution of this document includes a release of various rights of the respective parties and that as a result this Agreement is entered into knowingly.

- (a) Thus both parties acknowledge that they have read the Agreement, fully understand it, and have had all questions that they may have with regard thereto, answered.
- (b) Both parties enter into this Agreement of their own free will and have not been coerced into doing so.
- (c) Both parties executing this Agreement further represent that they did not suffer from any mental disease or defect, or are under the influence of drugs or alcohol at the time of execution, which renders them incompetent to understand and execute the Agreement.

* * * * *

EMPLOYEE HAS BEEN ADVISED IN WRITING THAT HE HAS BEEN GIVEN A REASONABLE AMOUNT OF TIME TO CONSULT WITH A LAWYER AND CONSIDER THIS AGREEMENT

HAVING ELECTED TO EXECUTE THIS AGREEMENT AND GENERAL RELEASE, TO FULFILL THE PROMISES SET FORTH HEREIN, THE PARTIES FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION AND AFTER AN OPPORTUNITY TO CONSULT WITH ANY PERSON OF THEIR OWN CHOOSING, ENTER INTO THIS AGREEMENT.

[signature page to follow]



Town of Clifton Park

Office of Town Attorney


Thomas McCarthy

Town Attorney

MEMORANDUM

Date: April 4 2022

To: Town Board

From: Tom McCarthy 

Cc: Town Clerk; Town Comptroller

Re: Highway Superintendent's February 28 Memo regarding outside Counsel for Highway Department Activities.

This memo is to provide the Board with legal advice concerning the Highway Superintendent's February 28, 2022 memorandum advising that he intends to retain his own attorney for the Highway Department. Exhibit 1 The concept that the memorandum describes is illegal, inappropriate, and raises significant ethical challenges. Firstly, here's why the proposal is *illegal*.

I

As outlined briefly in my November 8, 2021 memorandum to the Board on the same topic, these matters are covered by statute. The analysis starts with the proposition that municipalities, as subdivisions of the state, are only authorized to act according to their enabling legislation, in our case the New York State Town Law (NYSTL). Everything we do as a Town must be pursuant to some statutory authority.

Under the NYSTL, Town Boards have two basic options for obtaining legal services: (1) establishing the Office of the Town Attorney under (NYSTL 20 (2) (a)), or (2) they may employ outside counsel to give them such professional advice as may be required under NYSTL (20 (2) (b)). The Town of Clifton Park has established the Office of the Town Attorney, (OTA) pursuant to the New York State NYSTL 20 (2) (a). See Resolution of January 10, 1977, Exhibit 2.

Further, where a Town Board has established the OTA, the Town Board is also authorized to "employ" (outside) "counsel to the Town Attorney" in respect to any particular subject matter, proceeding or litigation." (NYSTL §20 (2) (a)) The same options would hold for the office of Town Engineer. A Town may also establish that office, or it may hire outside engineering on a project basis, for a particular project, or matter. (NYSTL §20 (2) (a))

NY CLS Town § 20

~~(2)(a) The town board of every town may establish the office of town attorney or town engineer, or both. If the town board shall so establish the office of town attorney or town engineer, or both, it shall fix the salary of such officer or officers. In addition, the town board of any such town may employ counsel to the town attorney in respect to any particular subject matter, proceeding or litigation, or it may employ such expert engineering service in respect to any particular subject matter, improvement or proceeding, as it may necessarily require.....~~

~~(b) The town board of any town which shall not have established the office of town attorney may employ an attorney to give it such professional service and advice as it may require, and the town board of any town which shall not have established the office of town engineer may employ an engineer to give it such professional service and advice as it may require.~~

The rationale for this statutory scheme is due to the fact that it is the Town Board which is ultimately responsible for compliance with federal, state and local law across a wide variety of topics, as well as all fiscal matters involving purchases and payments of taxpayer dollars. According to New York's highest court, the Court of Appeals, "The salient purpose underlying this rule is to ensure responsible municipal government. Not only is it designed as a safeguard against the extravagance or corruption of municipal officials, as well as against their collusion with attorneys". Cahn v. Town of Huntington 29 N.Y. 2d 451 (Ct. App. 1972).

In Clifton Park, on January 3, 2022, the undersigned was re-appointed to the Office of Town Attorney (OTA), for a two-year term, in Resolution No. 1 of 2022. The OTA is authorized by the same statute, NYSTL 20, as the Town Clerk and the Highway Superintendent. These positions are each public offices with independent statutory roles and responsibilities. One primary difference is that the other two positions are elective, while the Town Attorney is appointed. Pursuant to NYSTL 24, these officers serve statutory terms which expire on January 1 following the next local election following his/her appointment.

In Resolution No. 1 of 2022, the Town Attorney was assigned to the review and approval "of all contracts and agreements on behalf of the Town," an assignment which has been the same in each organizational resolution at least since 2007. My duties also include all legal matters relating to the Town Board, as well as supervision of a variety of other broad categories. Moreover, when so established, the Town Attorney acts as Attorney for the Town Board as well as "all of the officers of the Town," and there are multiple advisory opinions from the Office of the State Comptroller and Attorney General, as well as court decisions so holding. 21 OP State Compt., 245 (1965); OP Atty. Gen. 48 St. Dept. 662 (1933); 12 Op. State Compt. 53. Since the Highway Superintendent is also a public officer as authorized by NYSTL 20, the appointed Town Attorney is counsel to the Highway Department as a matter of state statute.

While some of these opinions are older, the statute they interpret has not changed, and there are no subsequent, contrary published opinions. While intra-municipal litigation on the point is rare, it does occur. In 1980, the Town Board of New Windsor, NY passed a resolution approving a retainer agreement with a law firm for general legal advice although they already had an established Public Office. When challenged, the Supreme Court ruled the resolution approving the retainer agreement to have been improper and contrary to statute. Subsequently, after passing a local law dis-establishing the Office of Town Attorney, a subsequent court approved a similar retainer agreement, under NYSTL 20 (2) (b); Crotty v. New Windsor, 431 N.Y.S. 2d 327; 425 N.Y.S. 2d 929, (S. Ct. 1980)

~~So, while the Board can retain outside counsel to the Town Attorney, for a particular matter, proceeding or litigation, (sometimes referred to as "special counsel") the general legal services, and advice to support day-to-day functions of the Departments and Public Offices within the Town are statutory duties of the Office of the Town Attorney. In my view, these are non-delegable duties, and the legal work associated with assisting the Highway Department "perform its daily duties" as outlined in the Highway Superintendent's February 28, 2022 memo simply cannot be "outsourced" to outside counsel, or retained on an RFQ process as the Highway Superintendent asserts, according to the plain reading of the specific, controlling statute, under common rules of statutory construction. Further, the ultimate determination of the legal propriety or the soundness of any position taken rests with the appointed Town Attorney, anyway.~~

~~The Town Board, which is elected, and (re-)elected, in November 2023, will have an opportunity to revisit the appointment of a Town Attorney in January of 2024, and may decide to appoint someone new, perhaps even one chosen or recommended by the Highway Superintendent. Or, it may then abolish the Office of Town Attorney, and outsource all of the legal services required by the Town to one or more outside law firms or lawyers under NYSTL 20 (2) (b). But until that time, neither the Highway Superintendent, nor the Town Board on his behalf, can outsource the legal needs for the daily activities of the Highway Department, or any other department, consistent with the enabling legislation authorizing the retention and compensation of legal services within Towns in New York. N 1.~~

All of the first section is clearly atty.- client

II

The Highway Superintendent's memo also raises interesting *ethical considerations* across a variety of operational areas, as the Court of Appeals alluded to in *Cahn*, quoted from above. This memorandum will focus only on the procurement area, however, as it appears that this is the source of the Highway Superintendent's primary objections to my office, as that is the only area in which I have heard complaints from him, either directly or indirectly.

My office, or the Town Comptroller, have always performed a basic procurement review of all resolutions submitted for purchases and acquisitions. There are a limited number of methods of procurement in the public sector, starting with (1) a sealed competitive bid process under GML 103, (2) "piggybacking" from another (NY State) local government's competitively bid contract, (3) a NY state contract, or (4) through an RFP or RFQ process which can include qualitative factors such as skill, delivery times, maintenance and repair capabilities, and similar subjective factors: (5) sole source, (6) preferred source, or the like. Depending upon the purchase price threshold, we may also use (7) quotes emailed or otherwise obtained through means less formal than sealed bids, so long as multiple quotes are obtained, or there is an explanation as to why such quotes are not available after reasonable effort.

According to the Town's adopted procurement policy, "the Determination that a contract or service is not governed by GML 103 shall be made by the Town Attorney or Comptroller." In practice, this simply means that we double check the means and methods used, to provide a basic level of assurance that the purchase or acquisition we are doing is done by the right, or applicable, method and fits into the "box" chosen by the Department. So if it is other than a sealed bid, one of us needs to understand why and agree that the method chosen is appropriate for the type and scale of the procurement at issue. For hybrid or "grey areas", Departments often consult with one or the other of us as they are preparing their purchase or formulating how they wish to proceed, so that the analysis doesn't need to take place after the fact, when it is often

asserted that "time is of the essence" and the resolution *must be* on the next agenda for some real or perceived operational reason. The Highway Superintendent used to do this with us regularly.

However, I have noticed an increased tendency of the Highway Superintendent to circumvent, short cut, evade, or otherwise hamper a meaningful review of his procurement steps, means, and methods, beginning in the early fall, and accelerating since the most recent election cycle in November. These actions include increasingly shrill, abusive and rude emails to the Town Comptroller, abusive emails and phone calls to Meg Springli, efforts to circumvent the Comptroller and Town Attorney by direct appeals to the Assistant Comptroller to approve a procurement, and evasive and incomplete submittals to the Town Attorney's office for purchases and acquisitions. Some of the rude and abusive emails to the Town Comptroller also concern purchases, payments, and budgets in addition to procurement matters.

Increasingly, the Highway Superintendent has simply taken the position that he need not answer any questions about a resolution request, including those involving purchases and procurements. He seems to contend that, if he submits a request "on time", no one can ask for any additional detail nor clarification on anything at all in the submission. This places my office in an impossible position as we try to comply with Resolution No. 249 of 2021 passed on November 1, 2021, which *requires us* to ensure that all relevant documents are gathered and posted, and to do so between Tuesday and Thursday of each week prior to a Board meeting.

In the most recent case, on February 21, 2022, The Highway Superintendent submitted an electronic resolution request, for the \$1.3 million acquisition of plow trucks and related vehicle specifications. From a review of the submission, it was not possible to discern (1) how many trucks we were buying, (2) from whom, (3) at what price, (4) through what procurement method (i.e. sealed bid, state contract, piggyback, sole source, or other). Therefore, I sent the Highway Superintendent an email inviting him to go over it with me. Exhibit 3) N2 He ignored the invitation, but later sent an Onondaga County Contract with bid dates from 2018, but nevertheless declined to discuss any other critical information omitted from the resolution request. Because there was not enough information upon which to write an intelligible, complete resolution authorizing the purchase, nor to check the procurement, I did not place the matter on the agenda for consideration by the Board. Following that evening's Board meeting, I then left Town for an eight-day vacation that had been noticed to all Department Heads for a month.

According to the email reproduced below, this was the trigger for the Highway Superintendent's February 28, memo advising the Board that he intends to retain his own counsel "for the Highway Safety Committee" and the Highway Department, which was distributed to Board members, the Town Clerk and Comptroller on at the Board meeting that night.

While I was away, the Highway Superintendent then sent an inappropriate and antagonistic email to Meg Springli, accusing me of "playing games," and of not being "professional" in keeping the purchase off the 2/28 and 3/7 agendas. The email is attached to this memo, (exhibit 4) but is worth quoting here, in context:

Incredibly disappointing that your boss continues to play games. Actions like this only cement my decision to rightfully go out and seek my own legal counsel and avoid his nonsense. Tom should be more professional than that, but I guess that's asking too much. Amy and I will be discussing this with you tomorrow. N3

This email to Meg is inappropriate, abusive, toxic, and creates a clearly hostile work environment for her, putting her on the defensive as my Administrative Assistant, and containing significant pressure on her to jam through a \$1.3 million procurement onto the agenda in my absence, without my ability to review it, and in disregard of our past practice in the office. The note advises her that she will be visited by both the Highway Superintendent and a superior, (a TB member,) increasing that pressure on her. She was subsequently summoned to appear in the Highway Department offices, against all past practice. She was not at all comfortable in appearing over there, opting instead to request that meeting take place in Town Hall. Only during the ensuing in-person meeting with Councilwoman Standaert in attendance, when he was confronted with his actual submission for the resolution, and the outstanding questions which were not answerable based on his submission, did he provide the documentation and answers to the basic questions we had about the purchases.

Upon my return, I reviewed the additional documentation provided, doublechecked the numbers, reviewed the piggybacked municipal contract and process to confirm the applicability of the piggybacking process; and filled in the blanks in a draft resolution that we had begun to prepare for the Board's approval of the purchases, which was approved at the next meeting on March 14. Obviously, if the Highway Superintendent had simply accepted my invitation for such a meeting with Councilwoman Standaert on February 22, gone over the specifics of the acquisition and order, the resolution could easily have been on the February 28th agenda. And while he admitted his mistake/omissions in an email to Meg, and apologized to her, Exhibit 5, N2 he has yet to acknowledge to me that the item was delayed by his own shorthanded, incomplete, and unintelligible resolution request, and subsequent declination to answer even basic questions about it.

This is but one incident, and the most recent time, but, as alluded to above, the tendency to short-hand, obfuscate, rush through, and otherwise impede my review of procurements and purchases has been increasing for some time, especially since the last local election season, during which the Highway Superintendent acted as a Campaign Consultant or political operative for the Board Members up for election.

One clear concern is that he has begun to act as though, now that he has become the de facto political leader of a majority faction on the Town Board, he has the political power to simply ram through whatever purchases, acquisitions, wage and hour payments, and other expenditures without having to bother with a legitimate review of those steps, means and methods by the Public Officers charged with such review. Certainly, the Highway Superintendent's February 23 email, dismissing my questions on this purchase clearly conveys: "I have three votes for this, and I don't need to answer any questions from you". (see the emails, attached.)

As I have told the Highway Superintendent, and others as well, my office has no budgetary responsibilities, and we have no interest in whether or not the town should buy trucks, replace damaged buildings, or make any other purchase or acquisition. However, as should be clear from all of the above, *how a purchase is made*, and application of interrelated state and local procurement laws, policy, and procedures is a critical and important function which is ultimately the responsibility of the Town Board, which has delegated this review to the Town Comptroller and Town Attorney through its adopted procurement policy.

By attempting to retain a captive attorney, answerable only to him, circumventing the office of the Town Attorney, the Highway Superintendent now seeks exemption from that independent review process, eliminating or suppressing the review of his procurement steps by

the professionals charged with that review on behalf of the Board, setting up the potential for abuse, knowing or unknowing of the Town's Procurement Policy and related ethics provisions.

That he has attained such a position with the majority of the Board, or believes he has, can be seen from reading the February 28, 2022 memo itself, which simply advises you as to what he is going to do, without so much as a request of you as the Town Board.

This comes at a particularly sensitive time, when the Town is proceeding with the administration and adjustment of an insurance claim and subsequent let of potentially millions of dollars in construction contracts associated with the destruction of the White Building and the rebuild/replacement for that facility to house extensive, and fiscally expensive, highway equipment. The Highway Superintendent has already reacted with extreme negativity to attempts to clarify details of the largest purchase-approval resolution we have had. Now he seeks a total exemption from any meaningful review of his steps in advance of the largest construction contracts we have done.

The type of short-hand, half-truth procurement "justification" that I have been increasingly detecting from the Highway Superintendent is even evident in the February 28, 2022 memo itself, where he advises you, the Town Board, on procurement law, stating that "according to the state comptroller's office, professional services can be hired on a basis outside of the normal 'lowest responsible bidder' qualifications of the Town's procurement policy", and goes on to apply this concept to Attorneys, but completely omits and ignores the specific statutes and laws that directly govern the actual options for hiring a Town Attorney, or Counsel to the Town Attorney, that is provided by such statute.

III

Finally, although the foregoing should be dispositive, the Highway Superintendent's February 28, 2022 memo is highly inappropriate and misguided and, frankly, stunningly disingenuous.

Firstly, the Highway Superintendent justifies the step by comparing the Highway Safety Committee to the Planning [Board], Zoning Board, and Town Board, all of which are formal, decisional boards, created by NYSTL, with statutory jurisdiction and authority to issue formal determinations, with counsel specifically authorized by their enabling legislation. Highway Safety is an advisory board comprised primarily of retirees from DOT who wish to help advise the Town on areas within their expertise. Certainly, the Planning Director, who has extensive experience in the workings and role of the HSC, doesn't think there is a need for an attorney to advise this, *advisory*, committee. Exhibit 6

The second paragraph takes an unveiled swipe at the undersigned, indicating he needs a "trustworthy" attorney, who can provide "ethical and honest legal advice that concurs with State Law and Town Code," implying that the Town currently licks such an attorney "available" to the Highway Department. As noted above, the missive then goes on to provide incomplete, incorrect, and ill-considered advice to the Board on the procurement and appointment of lawyers for the Town. Also missing is any form of a request for authorization from you, as the Town Board, for such a complete departure from how the Town has obtained and staffed critical services since 1977.

As for my work for the Board, as well as all departments and operations within the Town, if the Board is aware of any instances when I have not been "trustworthy" or "available",

or have failed to provide "ethical" or "honest" legal advice, please do let me know any such areas or instances.

If there are no such files, issues, or projects in which my advice, work, or the solutions I provided has failed in any of these areas, then perhaps the charge of being less than "professional" as the Highway Superintendent made in the March 3 email to my administrative assistant is misplaced.

In my view, professionalism includes, at a minimum, being able to work with others, in an inter-office environment, even if you 'don't like' them. Thus the memo is inappropriate as it seeks to further a "balkanization" of Town Hall, or to extend a version of our own little "cancel culture" where some employees or officers of the Town are perceived to work for one faction, and others appear to work for another faction, of the Town Board. We already have one employee who believes that, also inappropriately, and it is counterproductive and destructive to the rest of the employees who simply wish to do their jobs effectively and efficiently.

Finally, the Highway Superintendent's February 28, 2022 memo is highly inappropriate because it is factually incorrect in material ways, falsely impugns the integrity of others without justification and misrepresents applicable law. The memo is also an inappropriate aftermath to a rather outrageous instance, where he sought to jam through one of the largest procurements in memory - \$1.3 million, and then took the position that nobody among the people who are charged with processing and preparing Town Board resolutions and their backup documentation, can so much as ask a question about it. Instead of indulging this kind of attitude to any extent, perhaps the Board should consider directing the Highway Superintendent to cooperate with this office in the gathering, and the understanding, of information and documents for purchase resolutions, consistent with resolution 249 of 2021, and do so through a subsequent resolution if necessary.

End Notes

Note 1:

~~There is a process to remove NYSTL S20 Town Officers, within an existing term, under Section 36 of the NYS Public Officer's law, reprinted below.~~

~~§ 36. Removal of town, village, improvement district or fire district officer by court~~

~~Any town, village, improvement district or fire district officer, except a justice of the peace, may be removed from office by the supreme court for any misconduct, maladministration, malfeasance or malversation in office. An application for such removal may be made by any citizen resident of such town, village, improvement district or fire district or by the district attorney of the county in which such town, village or district is located, and shall be made to the appellate division of the supreme court held within the judicial department embracing such town, village, improvement district or fire district. Such application shall be made upon notice to such officer of not less than eight days, and a copy of the charges upon which the application will be made must be served with such notice.~~

Note 2: Below is a reprint of the March 3, 2022 email sent by the Highway Superintendent after he and Councilwoman Standaert met with her and he was confronted with what he had submitted. The email goes on to include a summary/narrative which was the basic kind of information I had asked for 9-10 days earlier. This note is also disingenuous, and frankly also engenders a hostile environment, as he attempts to split the comptroller and Myself from Meg in the explanation, by implying that Mark and I had everything we needed to review the original submission...we just kept it from Meg. The truth is that Mark had been emailing him with questions at the time of the original submission as well, and he ignored those requests for information, as well. The original submission is in my files and available for review.

From: [Dahn Bull](#)
To: [Meg Springli](#)
Cc: [Amy Standaert](#)
Subject: RE: March 14 Resolution for Plow Truck Purchase
Date: Thursday, March 3, 2022 3:02:52 PM

Hi Meg,

Thank you for taking the time to meet with me and Amy. Your explanation was very helpful and I truly believe that we all had the right information, we just weren't sharing it with the right person -you! So from now on I'll just make sure any communication with Tom or Mark goes to you for these things. On a good note, I spoke with the two sales people and they verbally assured me that the prices shouldn't change between now and the morning of the 15th, so as long as this is on the agenda a passed by the 14th, there shouldn't be a difference in that number. Below is the information you asked for as well. Thanks again and don't be afraid to set me straight.

Sincerely, Dahn S. Bull
Superintendent of Highways
Town of Clifton Park
639 Clifton Park Center Road Clifton Park,
NY 12065
Tel: (518) 371-7310
Fax: (518) 373-0039
dbull@cliftonpark.org

Note 3

The invitation suggested that a TB member accompany him in an attempt to keep the discussion civil in light of the recent discourse from that office.



Memo

The Clifton Park Town Board
To: Dahn S. Bull, Superintendent of Highways
From: Ellen Martin, Deputy Highway Superintendent, Raina Munafo, Clerk, Mark
Heggen, Comptroller, Tom McCarthy Town Attorney
cc: February 28, 2022
Date: Request for Qualifications for Legal Services, Highway Department
Re:

Continuing our discussion from the Town Budget Hearing and meetings in October of 2021, I will shortly be refining a simple Request for Qualifications (RFQ) for a part-time attorney. Similar to committees such as the Planning Department, the Zoning Board and the Town Board, I believe it would be important to have an attorney on hand to discuss issues from the Highway Safety Committee as well as assist the Highway Department in the operations of the day-to-day.

It is imperative that this department can perform its daily duties with a trustworthy and available attorney familiar with the rules and regulations concerning the department. This could include, but is not limited to, created contracts for vendor services and contractors, working with Resident claims that coincide with New York State Law and Town Code, review decisions made by the Highway Superintendent and the Highway Safety Committee, provide ethical and honest legal advice that concurs with State Law and Town Code, among other services that may arise.

According to the New York State Comptroller's Office, Professional Services are a service that can be hired on a basis outside of the normal "lowest responsive bidder" qualifications of the Town Procurement Policy. While we can appoint individuals to the position such as the Town Supervisor and Board are allowed to appoint the Town Attorney and Part-Time Town Attorney, I would feel more comfortable following the RFQ process and have an open and transparent search.

When completed, the RFQ will be distributed publicly through the newspaper and on the town website, as well as to local attorneys and law firms. This is an exploratory initiative, but I am incredibly serious in moving forward, but I will not until I have stable numbers for the Board.

INTRODUCED: ~~Supervisor McCloskey~~

SECONDED: ~~Councilman Palm~~

DATE: ~~January 10, 1977~~

VOTE: ~~All Aye.~~

~~RESOLUTION APPOINTING JOSEPH A. MARTINO AS
TOWN ATTORNEY FOR THE TOWN OF CLIFTON PARK.~~

~~BE IT HEREBY RESOLVED, that pursuant to Section 20(2)(a)
of the Town Law, the Town Board does appoint Joseph A. Martino as
Town Attorney for the Town of Clifton Park, and does hereby
establish the office of Town Attorney.~~

~~BE IT FURTHER RESOLVED that the duties of the Town
Attorney shall be to provide professional service and advice to
the Supervisor and the Board as they may require; and~~

~~BE IT FURTHER RESOLVED that in addition, pursuant to
Section 20(2)(a), the Board may employ or secure additional counsel
in specific matters involving litigation or research on any
particular subject matter as such matters shall be specifically
authorized by the Board; and~~

~~BE IT FURTHER RESOLVED that the Town Attorney shall
be paid at the rate of \$1,250.00 on a monthly basis.~~

From: Dahn Bull <DBull@cliftonpark.org>
Sent: Wednesday, February 23, 2022 10:10 AM
To: Tom McCarthy
Cc: Amy Standaert
Subject: RE: Procurement for Plowtrucks
Attachments: Onandaga Co Award 8996 - All Vendors, Class 8 trucks.pdf; copier@hlgage.com_20220222_144035.pdf; copier@hlgage.com_20220222_141146.pdf

We are simply ordering trucks here Tom. These trucks wont be delivered or paid for until 2024. I met my obligations to inform the board via the resolution in November, Resolution 262 of 2021, and through a memo dated January 17, 2022. Four out of five board members accepted the memo and asked a few questions, then offered their support. I see we're all ready to move this forward. I'll be happy to work with Mark on this but any delay on these orders adds another month to the waiting list.

From: Tom McCarthy TM cCarthy@_clift onpark.o rg
Sent: Tuesday, February 22, 2022 2:26 PM
To: Dahn Bull DBull@ cliftonpark.org
Cc: Amy Standaert AStandaert @clift onpark.org
Subject: RE: Procurement for Plowtrucks

Ok, well, my offer still stands. We can get it on the agenda after we go over it with you.

From: Tom McCarthy <TMcCarthy@cliftonpark.org>
Sent: Tuesday, February 22, 2022 12:53 PM
To: Dahn Bull <DBull@cliftonpark.org>
Cc: Amy Standaert <AStandaert@cliftonpark.org>
Subject: Procurement for Plowtrucks

Dahn
Your procurement request for the plowtrucks has generated a number of questions, both from Mark and myself .

We don't fully understand what you are doing, and offer to meet with you to clarify it, with a Town Board member of your choosing. After we have a fuller understanding, and some confirmation on the piggy back contract that you are trying to use, we can get on an agenda. I am available most of tomorrow, back after march 9 if it goes to a future agenda.

Exhibits

From: Dahn Bull
To: Meg Springli
Cc: Amy Standaert
Subject: RE: Emailing: 03-07-2022 Town Board Packet
Date: Wednesday, March 2, 2022 2:36:15 PM

EX 41

Meg,

Incredibly disappointing that your boss continues to play games. Actions like this only cement my decision to rightfully go out and seek my own legal counsel and avoid his nonsense. Tom should be more professional than that, but I guess that's asking too much. Amy and I will be discussing this with you tomorrow.

Sincerely, Dahn

S. Bull
Superintendent of Highways
Town of Clifton Park
639 Clifton Park Center Road Clifton
Park, NY 12065
Tel: (518) 371-7310
Fax: (518) 373-0039
dbull@cliftonpark.org

Meg Springli

From: Dahn Bull <DBull@cliftonpark.org>
Sent: Thursday, March 3, 2022 3:03 PM
To: Meg Springli
Cc: Amy Standaert
Subject: RE: March 14 Resolution for Plow Truck Purchase

Hi Meg,

Thank you for taking the time to meet with me and Amy. Your explanation was very helpful and I truly believe that we all had the right information, we just weren't sharing it with the right person -you! So from now on I'll just make sure any communication with Tom or Mark goes to you for these things. On a good note, I spoke with the two sales people and they verbally assured me that the prices shouldn't change between now and the morning of the 15th, so as long as this is on the agenda a passed by the 14th, there shouldn't be a difference in that number. Below is the information you asked for as well. Thanks again and don't be afraid to set me straight.

Overview

Of the six new trucks, five will be designed to tackle developments while the sixth truck will be geared more towards open road snow and ice removal. All trucks will be purchased under the Onondaga County Plow Truck Contract, #8996. Due to increased importance of a diverse and dynamic fleet, all these trucks will be capable of not only snow and ice removal but in the spring, summer and fall months will be able to be used for material and equipment hauling. The chassis will be through H.L. Gage of Albany, and under the name brand International, while the plow and spreader packages will be through Viking Cives (USA), and assembled in Harrisville, New York. All vehicles will be running on a Cummins, US and New York built engine. These trucks would be 2024 trucks. Current disruptions to the supply chain and disturbances in the heart of America's Automotive Industry have pushed delivery to possibly as late as early 2024. Purchase of the vehicles would occur upon delivery giving us a possible two budget cycles to figure out funding.

Single Axle Development Plow Trucks (5)

60 Month After Treatment Warranty-\$3,750.00
60 Month Major Component Warranty- \$465.00
Allison Transmission 5 Year Warranty - \$948.00
Viking Cives Plow Package-\$126,845.30
International Single Axle Truck/Chassis - \$96,286.90
TOTAL - \$228,295.20 each
TOTAL OF ALL FIVE - \$1,141,476.00

Tandem, 10 Wheeled Dump with Plow Package (1)

60 Month After Treatment Warranty-\$2,250.00
60 Month Major Component Warranty- \$735.00
Allison Transmission 5 Year Warranty - \$1,464.00
Viking Cives Plow Package - \$104,219.90
International Tandem Truck/Chassis - \$132,895.10
TOTAL - \$241,564.00

Conclusion

Our final product for the 5 development trucks and the 1 tandem will be total of \$1,383,040.00.

Sincerely,

Dahn S. Bull
Superintendent of Highways
Town of Clifton Park
639 Clifton Park Center Road
Clifton Park, NY 12065
Tel: (518) 371-7310
Fax: (518) 373-0039
dbull@cliftonpark.org

Tom McCarthy

EX 6

From: John Scavo <jscavo@cliftonpark.org>
Sent: Monday, March 28, 2022 4:37 PM
To: Tom McCarthy
Subject: Highway Safety Advisory Committee

Good Afternoon Tom,

It is my opinion that the Highway Safety Committee does not need an independent attorney outside of the Town Attorney's Office and Deputy Town Attorney's if a legal question arises. As an advisory board with no regulatory approval authority such as the Planning and Zoning Board's, I do not foresee legal council being a necessary regular course of business for the Highway Safety Committee.

John P. Scavo
Director of Planning
518-371-6054
Town of Clifton Park

One Town Hall Plaza/ Clifton Park, NY 12065

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