

November 23, 2020

A meeting of the Town Board of the Town of Aurora took place on Monday, November 23, 2020 at 7:00 p.m. Due to the coronavirus/Covid19 pandemic, tonight's meeting was live-streamed via Zoom and YouTube in accordance with NYS Executive Order 202.1 – *Suspension of law allowing the attendance of meetings telephonically or similar service: Article 7 of the Public Officers Law, to the extent necessary to permit any public body to meet and take such action authorized by the law without permitting public in-person access to meetings and authorizing such meetings to be held remotely by conference call or similar service, provided that the public has the ability to view or listen to such proceeding and that such meetings are recorded and later transcribed.*

Members in attendance: (via Zoom)	Jolene M. Jeffe Susan A. Friess Charles D. Snyder Luke Wochensky James J. Bach	Councilwoman Councilwoman Councilman Councilman Supervisor
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Absent/Excused: none

Others in attendance: (via Zoom or phone)	Ronald Bennett Martha Libroek Christopher Musshafen William Kramer David Gunner Tony Rosati Joseph Wetzel Shane Krieger	Town Attorney Town Clerk Recreation/Aquatics Director Code Enforcement Officer Highway Superintendent Zoning Board member GHD/Engineer Chief of Police
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Supervisor Bach opened the meeting at 7:00 p.m. with the Pledge of Allegiance to the Flag.

Councilwoman Jeffe moved to approve the minutes of the November 9, 2020 Town Board work session and meeting; seconded by Councilman Wochensky. Upon a vote being taken: ayes – five noes – none Motion carried.	Action #369 11/9/20 work sess & mtg min aprvd
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AUDIENCE I: none

UNFINISHED BUSINESS:

Councilwoman Jeffe moved to approve payment no. 13 to Greater Niagara Mechanical, Inc., 7311 Ward Road, N. Tonawanda, NY, in the amount of \$12,005.15 for work performed at the Aurora Municipal Center through November 16, 2020. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.	Action #370 Pymt 13 to GNM for AMC aprvd
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Councilwoman Jeffe moved to approve payment no. 18 to Industrial Power & Lighting, 60 Depot Street, Buffalo, in the amount of \$7,369.42 for work performed at the Aurora Municipal Center through October 31, 2020. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.	Action #371 Pymt 18 to IPL for AMC aprvd
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Councilwoman Jeffe moved to approve payment no.18 to Telco Construction, Inc., 500 Buffalo Road, E. Aurora, in the amount of \$38,827.74 for work performed at the Aurora Municipal Center through October 31, 2020. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.	Action #372 Pymt 18 to Telco for AMC aprvd
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General Code Publishers for the purpose of amending the Code Book of the Town of Aurora.

Action #374  
Local Law 2-  
2020 adopted  
(Cyber  
Security)

Upon a vote being taken: ayes – five            noes – none

Duly adopted this 23<sup>rd</sup> day of November, 2020.

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## LOCAL LAW 2-2020

### CHAPTER 11 CYBER SECURITY

A LOCAL LAW, TO AMEND LOCAL LAW 1-1990 KNOWN AS “THE CODES OF THE TOWN OF AURORA”, ADOPTED BY THE TOWN BOARD ON JANUARY 22, 1990 BY ADDING CHAPTER 11, CYBER SECURITY, FOR THE PURPOSE OF ESTABLISHING A CYBER SECURITY POLICY.

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF AURORA AS FOLLOWS:

#### § 11-1. Purpose.

Pursuant to the provisions of §208 of the State Technology Law, the Town Board of the Town of Aurora recognizes the requirement to establish a notification policy for cyber security breach. Section 208(8) defines the requirement to notify an individual when there has been, or is reasonably believed to have been, a compromise of that individual’s private information, in compliance with this Code.

#### § 11-2. Definitions.

As used in this chapter, the following terms have the meanings indicated:

COMPROMISE OF PRIVATE INFORMATION. The unauthorized acquisition of unencrypted computerized data with private information and encrypted data with private information.

##### (A). PRIVATE INFORMATION.

Personal information consisting of any information in combination with any one or more of the following data elements, when either the personal information or the data element is not encrypted or encrypted with an encryption key that has also been acquired:

- (1) Social Security Number;
- (2) Driver’s license number or non-driver identification card number;
- (3) Account number, credit or debit card number, in combination with any required security code, access code, or password which would permit access to an individual’s financial account;
- (4) Account number, or credit or debit card number, if circumstances exist wherein such number could be used to access an individual’s financial account without additional identifying information, security code, access code, or password;
- (5) Biometric information, meaning data generated by electronic measurements of an individual’s unique physical characteristics, such as fingerprint, voice print, or retina or iris image, or other unique physical representation or digital representation which are used to authenticate or ascertain the individual’s identity;

- (i) A username or e-mail address in combination with a password or security question and answer that would permit access to an online account.
- (ii) “Private information” does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

##### (B). BREACH OF THE SECURITY OF THE SYSTEM.

The unauthorized acquisition or acquisition without valid authorization of computerized data which compromises the security, confidentiality, or integrity of personal information maintained by the Town. Good faith acquisition of personal information by an employee or agent of the Town for the purposes of the Town is not a breach of the security of the system, provided that the private information is not used or subject to unauthorized disclosure.

(C) CONSUMER REPORTING AGENCY.

Any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

(D) UNENCRYPTED DATA.

If encrypted data is compromised along with the corresponding encryption key, the data shall be considered unencrypted and thus fall under the notification requirements.

**§11-3. Notification of compromise of private information.**

- A. If the Town owns or licenses computerized data that includes private information, it shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the system to any resident of the State of New York whose private information was, or is reasonably believed to have been, acquired by a person without valid authorization. The disclosure shall be made in the most expedient time possible to the Town Supervisor and without unreasonable delay, consistent with the legitimate needs of law enforcement, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.
- B. If the employees of Town suspect a breach of the security of the system has occurred, it shall consult with the New York State Office of Cyber Security and Critical Infrastructure Coordination (CSIC) or other agency to determine the scope of the breach and restoration measures. The involved individual shall be notified when it has been determined that there has been, or reasonably believed to have been a compromise of private information or unauthorized disclosure.
- C. In determining whether information has been acquired, or is reasonably believed to have been acquired, by an unauthorized person or a person without valid authorization, the Town may consider the following factors, among others:
  - (1) indications that the information is in the physical possession and control of an unauthorized person, such as a lost or stolen computer or other device containing information; or
  - (2) indications that the information has been downloaded or copied; or
  - (3) indications that security measures, such as firewalls, have been breached; or
  - (4) indications that the information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported.
- D. The Town shall notify all individuals whose private information was acquired, or reasonably believed to have been acquired during the breach of the security of the system. Such notification shall be by one of the following methods:
  - (i) Written notice;
  - (ii) Electronic notice, provided that the person to whom notice is required has expressly consented to receiving said notice in electronic form and a log of each such notification is kept by the Town who notifies affected persons in

such form;

- (iii) Telephone notification, provided that a log of each such notification is kept by the Town which notifies affected persons; or
  - (iv) Substitute notice, if the Town demonstrates to the State Attorney General that the cost of providing notice would exceed \$250,000, or that the affected class of subject persons to be notified exceeds 5,000, or the Town does not have sufficient contact information, substitute notice shall consist of all of the following:
    - (1) E-mail notice when the Town has an e-mail address for the subject persons;
    - (2) Conspicuous posting of the notice on the Town's web site page; and
    - (3) Notification to major statewide media and the East Aurora Advertiser or other local newspaper.
    - (4) Preference will be given to the fastest method to provide notification to the recipient among those listed above.
    - (5) Notification may be delayed if a law enforcement agency determines that the notification impedes a criminal investigation. In such case, notification will be delayed only as long as needed to determine that notification no longer compromises any investigation.
- E. The Town shall immediately notify the Town Clerk of the breach of the security of the system, who shall within 24 hours notify the insurer covering cybersecurity liability.
- F. The Town shall promptly notify the New York State Attorney General, the New York State Consumer Protection Board, and the New York State Office of Cyber Security and Critical Infrastructure Coordination (CSIC) or other agency responsible for the cybersecurity of municipalities as to the timing, content, and distribution of the notices and approximate number of persons affected.
- G. If the breach of the security of the system has affected more than 5,000 persons, the Town shall notify consumer-reporting agencies as to the timing, content, and distribution of the notices and the approximate number of affected individuals.
- H. Notification may be delayed if a law enforcement agency determines that the notification impedes a criminal investigation. In such case, notification will be delayed only as long as needed to determine that notification no longer compromises any investigation.
- I. Regardless of the method by which notice of a breach of the security of the system is provided, such notice shall include contact information for the Town making the notification and a description of the categories of information that were, or are reasonably believed to have been, acquired by a person without valid authorization, including specification of which of the elements of personal information and private information were, or are, reasonably believed to have been so acquired.

#### **§ 11-4. Penalties for Offenses.**

In addition to any penalties contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this code may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law.

#### **§ 11-5. Effective Date.**

This Local Law shall take effect immediately upon filing with the New York Secretary of State.

The Board discussed the Special Use Permit application for 583 Olean Road. The application was forwarded to the Planning Board who reviewed the plan and moved to recommend that the Town Board approve a Special Use Permit for a storage building for the storage of landscaping equipment. Councilman Snyder noted that at the Planning Board meeting, the property owner Nicholas DiPietro and his father, Carl DiPietro, said there will be no signage or outside lights and it will be strictly for the storage of landscaping equipment. There will not be bathroom facilities in the proposed building, nor will there be storage of bulk fuel. They also stated they will construct the building that will look similar to the NAPA building on the parcel and they will be renting out the space to Matucci Design to store landscaping business equipment. Attorney Bennett will prepare a Special Use Permit.

583 Olean  
spec use  
permit  
discussion

NEW BUSINESS:

Councilman Wochensky moved to approve the quote from Kiercom Communications, Inc. to run phone cabling at the Highway office building and Highway garage at a cost not to exceed \$810.00. Councilman Snyder seconded the motion. Upon a vote being taken: ayes – five  
noes – none Motion carried.

Action #375  
Hwy phone  
cabling quote  
from  
Kiercom  
aprvd

Councilwoman Friess moved to refer the Site Plan Review application from Sammie Trent for 1276 Mill Road, East Aurora, to the Planning Board for review and recommendation. Councilwoman Jeffe seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Prior to the vote being taken the following discussion took place:

Ms. Trent stated she is moving her Sprouting Minds Montessori school from Main Street in East Aurora to this new location on Mill Road as it is a larger building. Supervisor Bach asked if she owned the property. Ms. Trent responded they are under contract to close next week.

Action #376  
1276 Mill Rd  
site plan for  
school  
forwarded to  
Planning Brd

The Board discussed the Site Plan procedure and whether a public hearing needs to be held. Ms. Trent stated she will be talking to the neighbors about her plan early next week. Supervisor Bach suggested she get the feedback from the neighbors and take that information to the Planning Board.

Councilman Wochensky moved to approve the following special district budget transfer as requested by the Highway Superintendent to pay for electronics recycling pick up and unforeseen leaf vacuum repairs:

From: SR8189.100 Rubbish – Payroll \$2,359.06

To: SR8189.401 Rubbish – Recycling Svcs. \$2,359.06

Councilman Snyder seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #377  
Rubbish fund  
budget trans  
aprvd

Councilwoman Friess moved to declare the following used phone equipment as surplus inventory:

- Town Hall: 25 handsets and controller equipment (to be sold back to Kiercom Communications Inc. for \$100.00)
- Senior Center: 7 handsets (to be scrapped)
- Court: 2 handsets (to be scrapped)

Councilwoman Jeffe seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #378  
Old phones  
declared  
surplus  
inventory

Councilwoman Friess moved to declare a Dell 51x Max phone system server (TOA ID#1958 from the former Town Hall) as surplus inventory to be sent to E-Waste to be properly recycled/destroyed. Councilwoman Jeffe seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #379  
Old phone system server declared surplus inventory

Councilwoman Jeffe moved to authorize the Supervisor to sign the five-year agreement (2021 through 2025) with the WNY Stormwater Coalition and to approve the Memorandum of Agreement, Coalition By-Laws and Fee Schedule in order for the Town to continue its membership in the Coalition. The annual fee is \$1800. Councilman Snyder seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #380  
Board approves WNY Stormwater agreement, etc. Auth supv to sign

Councilman Wochensky moved to table the project proposal from the Kiwanis Aktion Club to replace two baseball diamonds at Community Pool Park with Turf Premier RS Systems. Councilwoman Jeffe seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #381  
Baseball diamond re-do for Aktion club tabled

COMMUNICATIONS and REPORTS – The following reports were received by the Board and filed:

- Building Department – October 2020 report
- Recreation – October 2020 report
- Highway – Village bridge update. Highway Superintendent Gunner stated that the project came in under budget.

#### BUSINESS FROM BOARD MEMBERS AND LIAISONS:

Councilman Wochensky stated the meeting being held by West Falls businesses and property owners to discuss a potential advisory committee will be held on-line due to new Covid restrictions.

Councilwoman Friess stated she reached out to Stacy at Absolute Care nursing home and was told that recently nine employees (2%) tested positive for Covid and they are testing their employees two times per week. Last Friday six residents from the rehab unit tested positive and have been moved to a Covid ward. All residents are being tested weekly. Mrs. Friess suggested that all Towns that have nursing homes should call them to obtain testing information as Erie County and New York State are unwilling to share the information. Mrs. Friess suggested that the positive numbers in nursing homes can skew data in a town.

Councilman Snyder and Councilwoman Jeffe both visited the Olean Road site of the ROC and both agreed this is a perfect site for that organization.

Councilman Wochensky stated that Spectrum is being very cooperative in discussions about blank or dead zones. Mr. Wochensky stated that AMR came back with an offer and asked the Board to get their thoughts to him by Wednesday.

Supervisor Bach wished everyone a Happy and Safe Thanksgiving.

#### AUDIENCE II:

Tony Rosati, Oakwood Ave., noted that the current 10 person limit for gatherings is for outside also (based on Covid orange zone restrictions). Mr. Rosati commented on the Special Use Permit for 583 Olean and stated there might be a minor risk for noise when equipment is being repaired.

STAFF REPORTS:

Police Chief Krieger noted that they have hired a new officer, Connor Denz.

Chris Musshafen stated that Elaine Schiltz is working on Winterfest plans to see how it could be run with Covid restrictions. Mr. Musshafen also noted that Pickleball is on-going at the Glead gym, bowling is wrapping up, EAST has pool time at UB and his department is recommending that Rent-A-Kid participants only perform outdoor jobs.

Highway Superintendent Gunner stated his department is going to two shifts this week.

ABSTRACT OF CLAIMS:

The Abstract of Claims dated November 23, 2020 consisting of vouchers numbered 1334 to 1384, and P-Card voucher 1385 was presented to the Board for audit and authorization of payment from the following funds:

General	\$ 205,995.51
Part Town	62.90
Highway (DA)	4,500.00
Highway (DB)	114,518.39
Capital/H5	64,089.81
Capital/H7	18,982.65
Trust/Agency 2	72,136.81
Special Districts	<u>57,019.15</u>
Grand Total Abstract	\$ 537,305.22

Councilman Wochensky moved to approve the November 23, 2020 Abstract of Claims and authorize payment of same. Councilman Snyder seconded the motion. Upon a vote being taken: ayes – five noes – none  
Motion carried.

Action #382  
11/23/20  
Abstract of  
Claims aprvd

Councilwoman Jeffe moved to adjourn at 8:40 p.m.; seconded by Councilwoman Friess. Upon a vote being taken: ayes – five noes – none  
Motion carried.

Action #383  
Meeting  
adjourned

Martha L. Librock  
Town Clerk