

## Perrysburg Town Board

Minutes of the Special Meeting of the Town Board, Town of Perrysburg, Cattaraugus County, NY, September 23, 2019 at the Town Hall

**PRESENT:** Jennifer Dabolt, Town Supervisor • Richard Gabel, Councilman • Dennis Parker, Councilman • Andy Lord, Councilman/Deputy Town Supervisor • Michael Becker, Councilman

**ALSO PRESENT:** Tamara A Utley, Town Clerk  
Dan Stang, Highway Supt.  
Henry Zomerfeld, Hodgson, Russ  
John Grennell, Attorney for the Town  
Mark Burr  
Janet Vogtli, Gowanda School Board member  
Charles Scanlan  
Jim & Mary Stuhr  
Ryan and Susan Frykholm, MDC  
Bill Cain  
Paul "Buzz" Dabolt  
Bob and Ada Fisher  
Jack Reinard  
Phil Palen  
Randy Ivett

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Supervisor called the meeting to order at 7:00 p.m. with the Pledge of Allegiance

Prospect Street Project Update Status Statement read by Town Supervisor:

- During construction contractor encountered subsurface conditions and other issues that caused the road to crack and appear to shift
- In the interest of public safety, the road will remain closed until further information received
- Evaluating all options to make informed decision about the road and whether it can be opened safely
- Reached out to the County and other officials to assist in examining options in developing recommendations with goals of keeping public safe and preserving the Town's ability to request additional financial assistance from FEMA
- Special Counsel and Town Attorney exploring legal avenues regarding those options
- Significant amount of work has been done on Prospect Street, weirs and stone in place and work in creek is complete in accordance with DEC requirements
- Potential cost to repair will exceed \$250,000 and may have to be incurred by the Town
- Depending on the cause of damage, there may be technical justification to request a change order from FEMA
- Evaluating potential of litigation to hold any individuals and entities responsible
- To determine fix, additional information needed specifically the nature and location of materials beneath road and on slope that leads to creek
- Geotech report that includes test borings will help determine why earth beneath road is moving, current load capacity, amount of unstable fill exists, where and how much engineered fill may be required for permanent repair and potential cost

- As built drawings requested from engineer Nussbaumer & Clarke and contractor D & H Construction, required for FEMA project; preliminary close-out audit recently started
- Legal team currently reviewing project materials to determine what was done, what should have been done, if inappropriately done and whether entities involved carried out contractual obligations
- Survey will be required as part of FEMA project
- All records must be provided to legal team before submit to government
- Recommended that Town Board authorize Town accountant to conduct complete project audit in anticipation of final closeout requirements
- Recommended Town Board approve using an RFP for geotechnical report and a survey to be done by independent third parties

Janet Vogtli reported that the Panther Drive bridge will be shut down in the spring

Heard from Charles Scanlan, owner of Big Foot Gas Station – box culvert to be replaced at the top of Indian Hill Road next year – worst case scenario, that would be open to one lane if bottom of Hill is not open or is open to one lane

Mark Burr, Cattaraugus County Engineer, working on his own time to help Town, gave technical overview of work at the Prospect Street project

- One option is to make road one lane - design consultant that developed the project would have to evaluate and agree there is a safe way to do that then inform the Town so they can implement
- Want to make sure mass of the earth is stable enough for vehicles to safely cross
- The more information and soil borings you have the better predictions you can make
- General observation appears the portion that is reconstructed is doing what it was designed to do
- Mr. Burr's opinion – he is optimistic that something could be done in a few weeks
- FEMA is a very lengthy process but you have to go through it
- Going back to FEMA for this portion of road is an option, that is a Town Board decision
- Expressed concern to get this open as soon as possible

Supervisor stated the Town has to refer to the legal team and let them guide us through proper steps

Heard from Consultant Ryan Frykholm, there are three (3) options

1. Town do the work with no FEMA contribution or effort to recover funds from FEMA
2. Attempt to recover funds from FEMA; discussions are ongoing with NYS and FEMA; long term could potentially recover cost from FEMA if able to identify and define damage was from 2014 storm
3. Do nothing

If you get a geotech at site and get a handle on what's going on, could get the road reopened this year

ATTORNEY CLIENT PRIVILEGE -- 7:58 pm Motion by Supervisor Dabolt, second by Councilman Lord.  
Request for Town Highway Superintendent and Town Clerk to stay  
ALL AYE MOTION CARRIED

9:04 pm Town Board returned to regular session

Motion by Councilman Lord, second by Councilman Becker to publish notice to accept proposals from Technical Engineering firms for Geotechnical Service qualifications and proposals from Professional Licensed Surveyors for the creation of Project Survey for a section of Prospect Street; proposals due October 4<sup>th</sup>

Motion by Councilman Gabel, second by Councilman Becker authorizing the Town accounting firm Baghat, Laurito-Baghat to conduct a comprehensive audit of the Prospect Street project  
ALL AYE MOTION CARRIED

9:13p.m. Councilman Lord motion to adjourn, second by Supervisor Dabolt

Respectfully Submitted,

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Tamara A. Utley, Town Clerk