

March 17, 2020

State of New York  
County of Fulton  
Town of Oppenheim

Minutes of the Oppenheim Town Board meeting held on March 17, 2020 at the Oppenheim Town Hall located at 110 Route 331, St. Johnsville, NY 13452

**Present**

Cynthia Breh	--	Supervisor
Kathleen Montana	--	Councilwoman
Robert Norris	--	Councilman
Robert Pierce	--	Councilman
Gloria Brys	--	Town Clerk
Brian Miller	--	Assistant Superintendent of Highways

**Absent**

Dennis Yost	--	Councilman
Scott DeNinno	--	Highway Superintendent
Dave Rackmyre	--	Codes Enforcement Officer
Ty Stowell	--	Dog Control Officer
Joanne Capek-Young	--	Bookkeeper

Supervisor Cynthia Breh called the meeting to order at 6:00 pm with the Pledge to the Flag.

**Bookkeeper Report**

Joanne Capek-Young was absent but had a monthly report for the board members.

Robert Norris made a motion to accept the Bookkeepers report and Kathleen Montana seconded it and Robert Pierce was in favor.

**Dog Control Officers Report**

Ty Stowell was absent but had a report for the board. He said that he received a call about a dog bite on the Voorhees Road. The dog was up to date on shots and remained at the residence for the 10 day quarantine.

Robert Pierce made a motion to accept the Dog Control Officers Report and Kathleen Montana seconded it and Robert Pierce was in favor.

**Codes Enforcement Officers Report.**

Dave Rackmyre was absent but had a written report for the board. He said that he completed the 4 hours of the required 24 annual hours to maintain his certification as A Code Officer.

Robert Norris made a motion to accept the Codes Enforcement Officers report and Kathleen Montana seconded it and Robert Pierce was in favor.

March 17, 2020  
(cont)

**Highway Report**

Scott DeNinno was absent but had a written report for the board members. He stated that the employees have been out installing new road signs and also have begun the preparation of summer maintenance equipment. The water heater has been replaced by C&J heating. Also, the Insurance Company has stated that the Highway Department should look into getting a fire alarm system

Robert Norris made a motion to accept the Highway Report and Kathleen Montana seconded it and Robert Pierce was in favor.

**Town Clerks Report**

Town Clerk Brys presented the monthly report for February 2020.

Robert Norris made a motion to accept the Town Clerks monthly report and Kathleen Montana seconded it and Robert Pierce was in favor.

**Hot Water Tank**

Supervisor Breh said that she approved the hot water tank from C&J Heating for a cost of \$1,400.00. Eric Watson said that the on demand wouldn't work because of the quality of water. It would have to have filters and conditioners.

**Time Clock**

Supervisor Breh stated that we are purchasing a new time clock which is a swipe card.

Scott DeNinno will have read me rights only.

**Motions**

Motion made by Robert Norris and seconded by Kathleen Montana to transfer the following money:

From: DA9730.61 Bond Anticipation - \$100.00

To: DA9730.7 BANS Interest - \$100.00

Adopted

Ayes - 4 Norris, Montana, Pierce, Breh

Absent - 1 Yost

Motion made by Robert Pierce and seconded by Robert Norris to approve Resolution #34 Which is as follows:

1. Authorizing the Town of Oppenheim Supervisor Cynthia M. Breh to cancel monthly Town Board meeting in emergency situations.
2. Authorizing Supervisor Cynthia M. Breh to submit payment of vouchers submitted by Vendors (General & Highway) in emergency situations

Adopted

Ayes - 3 Pierce, Norris, Montana

Absent - 1 Yost

March 17, 2010 (cont)

Motion made by Robert Norris and seconded by Robert Pierce to accept the Town of Oppenheim Second Amendment Sanctuary Resolution which is as follows:

2020 Town of Oppenheim State of New York  
Second Amendment Sanctuary Resolution

SECTION 1. TITLE

The title of this Resolution shall be known as the "Second Amendment Sanctuary Ordinance," or "SASR."

SECTION 2. FINDINGS

The people of the Town of Oppenheim, New York, find and declare:

- A. Acting through the United States Constitution, the people created government to be their agent in the exercise of a few defined powers, while reserving to the citizens the right to decide on matters which concern their lives, liberty, and property in the ordinary course of affairs;
- B. The Second Amendment to the Constitution of the United States of America states, "A well-regulated Militia being necessary to the security of a free State, the right of the People to keep and bear arms, shall not be infringed";
- C. The right of the people to keep and bear arms is further protected from infringement by State and Local Governments under the Ninth, Tenth, and Fourteenth Amendments to the Constitution of the United States of America as well as Article II, Section 4 of the New York Civil Rights Law;
- D. The Supreme Court of the United States of America in District of Columbia v. Heller recognized the individual's right to keep and bear arms, as protected by the Second Amendment of the Constitution of the United States of America. Justice Antonin Scalia's prevailing opinion in that case stated that the Second Amendment protects an individual's right to possess a firearm unconnected with service in a militia, and the right to use that firearm for traditionally lawful purposes, such as self-defense within the home;

E. Section I of the Fourteenth Amendment to the Constitution of the United States of America states, "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws";

F. The Supreme Court of the United States recognized in *McDonald v. City of Chicago* that the Second Amendment to the Constitution was incorporated by the Fourteenth Amendment and thereby made applicable to the States;

G. Justice Thomas M. Cooley in the *People v. Hurlbut* 24 Mich. 44, page 108 (1871), states: "The State may mould local institutions according to its views of policy or expediency: but local government is matter of absolute right; and the state cannot take it away";

H. The right to be free from the commandeering hand of government has been recognized by the United States Supreme Court in *Printz v. United States*. The Court held: "The Federal Government may neither issue directives requiring the States to address particular problems, nor command the States' officers, or those of their political subdivisions, to administer or enforce a federal regulatory program." The anticommandeering principles recognized by the U.S. Supreme Court in *Printz v. United States* are predicated upon the advice of James Madison, who in *Federalist #46* advised "a refusal to cooperate with officers of the Union" in response to either unconstitutional federal measures or constitutional but unpopular federal measures;

1. Therefore, the right to keep and bear arms is a fundamental individual right that shall not be infringed; and all local, state, and federal acts, laws, orders, rules or regulations regarding firearms, firearms accessories, and ammunition are a violation of the Second Amendment;

J. Local governments have the legal authority to refuse to cooperate with state and federal firearm laws that violate those rights and to proclaim a Second Amendment Sanctuary for law-abiding citizens in their cities and counties;

K. Therefore, through the enactment of this document, The Town of Oppenheim, New York, is hereby a Second Amendment Sanctuary Town.

### SECTION 3. PROHIBITIONS

A. Notwithstanding any other law, regulation, rule or order to the contrary, no agent, department, employee or official of the Town of Oppenheim, a political subdivision of the State of New York, while acting in their official capacity, shall:

- 1) Knowingly and willingly, participate in any way in the enforcement of any Unlawful Act, as defined herein, regarding personal firearms, firearm accessories, or ammunition.
- 2) Utilize any assets, county funds, or funds allocated by any entity to the county, in whole or in part, to engage in any activity that aids in the enforcement or investigation relating to an Unlawful Act in connection with personal firearms, firearm accessories, or ammunition.

### SECTION 4. PENALTIES

A. An "Unlawful Act" shall consist of any state act, law, order, rule, or regulation, which restricts an individual's constitutional right to keep and bear arms, including any state act, law, order, rule, or regulation which bans or effectively bans, registers or effectively registers, or limits the lawful use of firearms, firearm accessories or ammunition (other than a fully automatic firearm or a firearm, accessory, or ammunition which is made unlawful by federal law). Any such "Unlawful Act" is invalid in this county and shall not be recognized by the Town of Oppenheim, is specifically rejected by the voters of this county, and shall be considered null, void and of no effect in the Town of Oppenheim, New York, and this includes, but shall not be limited to the following:

- 1) Any state tax, levy, fee, or stamp imposed on firearms, firearm accessories, or ammunition not common to all other goods and services on the purchase or ownership of those items by citizens, other than pursuant to federal law; and
- 2) Any state registration or tracking of firearms, firearm accessories, or ammunition, other than pursuant to federal law;
- 3) Any state registration or tracking of the owners of firearms, firearm accessories, or ammunition, other than pursuant to federal law;
- 4) Any registration and background check requirements on firearms, firearm accessories, or ammunition for citizens, other than checks made pursuant to federal law; and

5) Any state act forbidding the possession, ownership, or use or transfer of any type of firearm, firearm accessory, or ammunition by citizens of the legal age of eighteen and over, other than pursuant to federal law;

6) Any act ordering the confiscation of firearms, firearm accessories, or ammunition from citizens;

7) Any prohibition, regulation, and/or use restriction related to ownership or the constitutionally-guaranteed lawful use of non-fully automatic firearms;

8) A civil offense against this ordinance is a Class A violation, with a maximum fine of \$2,000 for an individual, and \$4,000 for a corporation; and

9) Any prohibition, regulation, an/or use restriction limiting hand grips, stocks, flash suppressors, bayonet mounts, magazine capacity, clip capacity, internal capacity, or types of ammunition available for sale, possession or use by citizens.

B. Anyone within the jurisdiction of the Town of Oppenheim, New York, accused to be in violation of this ordinance may be sued in the Supreme Court of New York for declaratory and injunctive relief, damages, and attorney's fees. Neither sovereign nor official or qualified immunity shall be an affirmative defense of the County in cases pursuant to this section.

C. Any peace officer may enforce this ordinance.

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D. Exceptions:

1) The protections provided to citizens by this ordinance do not apply to persons who have been convicted of felony crimes or who are prohibited from possessing firearms under federal law ..

2) This ordinance is not intended to prohibit or affect in any way the prosecution of any crime for which the use of, or possession of, a firearm is an aggregating factor or enhancement to an otherwise independent crime.

3) This ordinance does not permit or otherwise allow the possession of firearms in State or Federal buildings.

4) This ordinance does not prohibit individuals in the Town of Oppenheim from voluntarily participating in assisting in permitting, licensing, registration or other processing of applications for concealed carry permits, or other firearm, firearm accessory, or ammunition licensing or registration processes that may be required by law.

## SECTION 5. SEVERABILITY

A. The provisions of this act are hereby declared to be severable, and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

## SECTION 6. EFFECTIVE DATE

A. The effective date of this ordinance, The Second Amendment Sanctuary Resolution, or SASR, shall be immediately upon approval by the Town of Oppenheim.

Adopted

Ayes 4 Norris, Pierce, Montana, Breh

Absent - Yost

### **Approval of Minutes**

Motion made Robert Norris and seconded by Kathleen Montana to accept the minutes of February 18, 2020

Adopted

Ayes - 4 Norris, Montana, Pierce, Breh

Absent - Yost

March 17, 2020 (cont)

Motion made by Robert Norris and seconded by Robert Pierce to accept the Agreement For the Expenditure of Highway Moneys which is as follows:

**Agreement for the Expenditure of Highway Moneys**

**AGREEMENT** between the Town Superintendent of the **Town of Oppenheim**, Fulton County, New York, and the undersigned members of the Town Board.

Pursuant to the provisions of Section 284 of the Highway Law, we agree that moneys levied and collected in the Town for the repair and improvement of highways, and received from the State for State Aid for the repair and improvement of highways, shall be expended as follows:

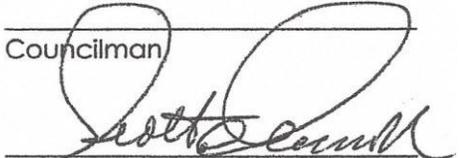
**GENERAL REPAIRS.** The sum of **\$80,000.00** shall be set aside to be expended for primary work and general repairs upon 60.46 miles of town highways, including sluices, culverts and bridges having a span of less than five feet and boardwalks or renewals thereof.

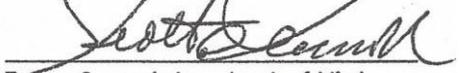
**PERMANENT IMPROVEMENTS.** The following sum shall be set aside to be expended for the permanent improvement of Town highways: **\$180,000.00**

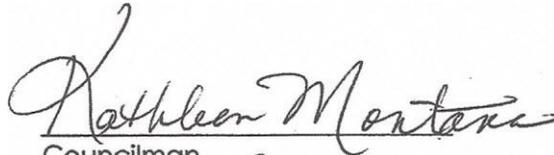
Specific permanent improvement projects shall be listed in a subsequent amended highway agreement once projects have been chosen.

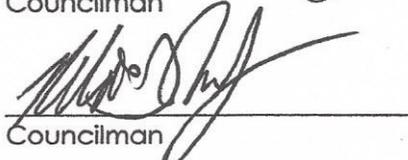
  
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Supervisor

  
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Councilman

  
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Councilman

  
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Town Superintendent of Highways

  
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Councilman

  
\_\_\_\_\_  
Councilman

Adopted

Ayes- Norris, Pierce, Montana, Breh

Absent Yost

March 17, 2020 (cont)

Motion made by Robert Norris and seconded Robert Pierce to authorize payment of the vouchers

Adopted

Ayes - 5 Norris, Pierce, Montana, Breh

Absent - Yost

With no further business on a motion by Councilman Norris and seconded by Councilwoman Montana the meeting was adjourned at 6:55 pm

Respectfully submitted,  
Gloria J. Brys, Town Clerk