

Regular Meeting of the Town Board of the Town of LeRoy held on Thursday, May 27, 2021 at 7:00 PM in the Boardroom of the Town Hall, 48 Main Street LeRoy, New York.

Members Present: James Farnholz, Supervisor
John Armitage, Council
John Johnson, Council
David Paddock, Council
Ronald Pangrazio, Council
Eric Stauffer, Highway Supt.
Recording Secretary: Patricia A. Canfield, Town Clerk

Others Present: Ed Englerth, Eileen Dries

Supervisor Farnholz called the regular meeting to order at 7:00 PM followed by the pledge to the flag and approval of the minutes of the meeting of May 13, 2021 with correction on **MOTION** by Supervisor Farnholz and seconded by Councilman Pangrazio and passed unanimously.

OLD BUSINESS:

1. Public Water Supply – [Town Residents Currently without Public Water] -

Supervisor Farnholz relayed the water survey questionnaire for residents without public water will be sent out to receive feedback on interest. Federal grant funding will be available for application to defray cost of project. Also, option of using PVC piping to reduce costs. Based on determination of district moving forward, any costs incurred by Town would be funded back to district.

Authorization - Clark Patterson Lee – Preliminary Engineering Services –

On **MOTION** by Supervisor Farnholz seconded by Councilman Armitage and passed unanimously with voting as follows: Council Armitage, Johnson, Paddock, Pangrazio and Supervisor Farnholz – aye; the following **RESOLUTION:**

RESOLVED, the Town Board of the Town of LeRoy authorizes Eric Wies from Clark Patterson Lee to complete the preliminary engineering services map, plan and report for town-wide water district for residents currently not being serviced by a public water supply at a cost not to exceed \$10,000.

2. Commercial Solar Code Fee –

The special use permit fee will be set at \$250.00 with consults and legal fees at \$5,000 and assessment megawatt or per acre possibly at ten cents per square foot of fenced in solar area. There will be set backs and distance restrictions.

3. Shared Court Facility – Town of Pavilion – Contract Language -

On **MOTION** by Supervisor Farnholz seconded by Councilman Johnson and passed unanimously with voting as follows: Council Armitage, Johnson, Paddock, Pangrazio and Supervisor Farnholz – aye; the following **RESOLUTION:**

RESOLVED, the Town Board of the Town of LeRoy authorizes the Supervisor to sign and execute said agreement between Towns of LeRoy and Pavilion to enter into a 10-year lease agreement for shared court facility with Town of Pavilion, as per enclosed agreement.

**OFFICE AND COURT FACILITIES
LEASE AGREEMENT**

THIS LEASE, made the 27 day of May 2021, by and between the Town of LeRoy, having offices at 48 Main St., LeRoy, NY, herein called “Landlord”; and the Town of Pavilion, having offices at One Woodrow Dr., Pavilion, NY, herein called “Tenant”.

IN CONSIDERATION of the mutual covenants and agreements contained herein, it is agreed as follows:

1. Landlord hereby leases to Tenant and Tenant hereby rents from Landlord, the space hereinafter called the “Premises”, located at Town Hall of the Town of LeRoy, 48 Main St., LeRoy, New York, including the right to use common parking areas; as follows:
 - a. At all times, non-exclusive use of one office in the jury room of the Town Court facility.
 - b. During the hours of Tenant’s Town Court operations, use of the Courtroom facilities and conference rooms.
 - c. At all times, non-exclusive use of restroom facilities.
2. The Premises is leased for a term of ten (10) years, to commence on the 1st day of July, 2021.
3. The rent shall be for the sum of Six Thousand Dollars (\$6,000.00) per year for the first five (5) years of the Lease, with an increase to Six Thousand One Hundred Twenty Dollars (\$6,120.00) per year for years six through ten; to be paid on or before the 1st day of August of each year. Tenant shall post with Landlord a security deposit of Five Hundred Dollars (\$500.00), which Landlord shall deposit in an interest-bearing trust account. At the end of the term, if Tenant has left the premises in the same condition as at the beginning of the lease, and has no rent default, all principal and interest shall be returned to Tenant. In the event that Tenant has not paid rent in full or has not returned the premises in the same condition as existed at the start of the term, Landlord may retain all or part of the security deposit as circumstances warrant.
4. Either party may terminate the Lease by providing to the other party a written notice on or before December 31st of any calendar year, to be effective on December 31st of the following calendar year. No termination shall be effective during a calendar year.
5. Landlord shall be responsible to pay for any telephone, security system, and trash removal contracts.
6. Tenant shall use and occupy the Premises for office activities and to operate its Town Court by its Town judges and support staff, and for no other purpose without the written consent of the Landlord. The Tenant’s Town judges shall coordinate with the Landlord’s Town judges the times and dates for Tenant to hold its Court operations, with the Landlord’s Court operations to have precedence with regard to the times and dates. Tenant contemplates using the Court room for its criminal, traffic and civil proceedings two nights per month, generally; initially Tenant will require three (3) nights per month until its case

- backlog is brought current. In any month in which Tenant uses three (3) nights, rent shall be Seven Hundred Fifty Dollars (\$750.00) for that month.
7. Tenant shall pay rent to Landlord at Landlord's above stated address, or at such other place as Landlord may designate in writing, without demand and without counterclaim, deduction or set off.
 8. Tenant shall commit no act of waste and shall take good care of the Premises and the fixtures and appurtenances therein, and shall, in the use and occupancy of the Premises, conform to all laws, orders and regulations of the Federal, State and Municipal governments or any of their departments, particularly those of the NYS Office of Court Administration.
 9. The Landlord's responsibilities for maintenance and repairs are as follows:
 - a. The Landlord shall be responsible for all maintenance and repairs of existing common areas, including, but not limited to, common exits and entrances to and from the building, common ramps, common hallways within the building of which the leased Premises is a part, common parking, sidewalks and roadways.
 - b. The Landlord shall also be responsible for all structural maintenance and repairs to existing facilities, including, but not limited to, the existing roof, interior and exterior walls (and windows), floors, ceiling and foundation.
 - c. The Landlord shall also be responsible for all maintenance and repairs involving the existing and current configurations for the electrical, plumbing and sewage systems, heat and air cooling installations.
 - d. Notwithstanding the foregoing, the Tenant shall reimburse the Landlord for any maintenance, repair, rebuilding, or other costs incurred by Landlord as the result of damages caused by the action of or failure to act by the Tenant, its agents, employees, servants and invitees, including participants in litigation before the Pavilion Town Court.
 10. Tenant shall not do any of the following:
 - a. Without first obtaining the written consent of Landlord, make any alterations or improvements in, to or about the Premises.
 - b. Do or suffer anything to be done on the Premises which will increase the rate of fire or casualty insurance on the building.
 - c. Permit the accumulation of waste or refuse matter on the leased Premises or anywhere in or near the building.
 11. Tenant may not sublease all or any portion of the Premises.
 12. The Landlord agrees to pay all utilities for the building of which the leased Premises are a part, including, but not limited to, heat, light, gas, electric, water and sewer.
 13. Auxiliary personnel. Tenant shall hire and pay all compensation, payroll taxes, NYS retirement contribution (if applicable) and all other forms of compensation and benefits, if any, for
 - a. Court security;
 - b. Deputy court clerk; and
 - c. Any other personnel, such as a court stenographer as needed from time to time.

Landlord shall not be responsible for the actions or inactions of all such auxiliary personnel, who will not be and will not be considered to be agents, employees, servants or contractors of the Town of LeRoy during all times in which they are serving the Town Court of the Town of Pavilion.

Compensation for such auxiliary personnel when serving the Pavilion Town Court shall be the same as paid for time serving the LeRoy Town Court.

14. Tenant agrees to promptly notify the Landlord of repairs that may need to be made to the leased Premises and Tenant further agrees to allow the Landlord to examine the leased Premises at any time during the term of this Lease, upon reasonable notice to the Tenant, for the purpose of making repairs, or determining whether repairs need to be made, or for any other legitimate purposes.
15. In case the leased Premises shall be damaged by fire or other unavoidable casualty so that the same shall be thereby rendered unusable by the Tenant, then the rent shall be suspended or abated until the said Premises shall have been put in proper condition for use by the Tenant. In case of fire, or other damage or casualty, the Landlord shall thereupon cause the damage to be repaired, but if the Premises be so damaged that the Landlord shall decide not to rebuild, which decision shall be solely within the discretion of the Landlord, the term hereby created shall cease, and the rent shall either be paid by the Tenant or rent shall be refunded to the Tenant on a prorated basis for such period of time up to the date of the casualty.
16. Tenant is granted the right, in common with the Landlord and other tenants and licensees of the Landlord, to use common exits and entrances to and from the building of which the leased Premises is a part, parking, sidewalks and roadways, all in areas and upon conditions as designated by Landlord. The Tenant is expressly prohibited from storing any and all property in any common areas. The Tenant agrees to keep the common areas clear at all times.
17. The Tenant shall hold harmless, indemnify and defend Landlord from all liability, penalties, losses, damages, costs, expenses, causes of action, claims and/or judgments, including reasonable attorney's fees, which arise by reason of any injury or death to any person or persons, or damage to the property of any person or persons, resulting from the actions or inaction of the Tenant, its agents, servants, employees, invitees and litigation participants which in, upon or in any way connected with the leased Premises or use of the common areas, during the term of this Lease or any occupancy hereunder.
18. Tenant shall provide liability insurance during the term of this Lease in the amount of \$1,000,000 per person and \$2,000,000 per incident naming the Landlord as an additional insured. The Landlord shall hold harmless, indemnify and defend Tenant from all liability, penalties, losses, damages, costs, expenses, causes of action, claims and/or judgments, including reasonable attorney's fees, which arise by reason of any injury or death to any person or persons, or damage to the property of any person or persons, resulting from the actions or inaction of the Landlord, its agents, servants, employees and invitees while in, upon or in any way connected with all areas inside or outside of the building known as the Town Hall, Town of LeRoy, New York, during the term of this Lease or any occupancy hereunder.
19. If Tenant defaults in the payment of rent, or defaults in the performance of any of the other covenants or conditions hereof, Landlord may give Tenant notice of such default and if Tenant does not cure any rent default within three (3) days, or other default within ten (10) days, after the giving of such notice (or if such other default is of such nature that it cannot be completely cured within such period, if Tenant does not commence such curing within such ten (10) days and thereafter proceed with reasonable diligence and in good faith to cure such default), then Landlord may terminate this Lease on not less than ten (10) days' notice to Tenant, and on the date specified in said notice the term of this Lease shall terminate, and Tenant shall then quit and surrender the Premises to Landlord, but Tenant shall remain liable as hereinafter provided. If this Lease shall have been so terminated by Landlord, Landlord may at any time thereafter resume possession of the Premises by any lawful means and remove Tenant or other occupants and their effects.
20. The failure of either party to insist on strict performance of any covenant or condition hereof, or to exercise any option herein contained, shall not be construed as a waiver of such covenant, condition or option in any other instance. This Lease cannot be changed or terminated orally.

21. Interruption or curtailment of any service maintained in the building, if caused by strikes, mechanical difficulties or any causes beyond Landlord's control, whether similar or dissimilar to those enumerated, shall not entitle Tenant to any claim against Landlord or to any abatement in rent and shall not constitute constructive or partial eviction, unless Landlord fails to take such measures as may be reasonable in the circumstances to restore the service without undue delay. If the Premises are rendered untenable in whole or in part, for a period of ten (10) consecutive business days, by the making of repairs, replacements or additions, other than those made with Tenant's consent or caused by misuse or neglect by Tenant or Tenant's agents, servants, visitors, licensees or litigation participants, there shall be a proportionate abatement of rent during the period of such untenability.
22. All notices or demands required or desired to be given pursuant to this Lease shall be in writing and addressed to the parties at the addresses given on the first page of this Lease; or at such other addresses as shall be designated hereinafter by either party in writing. Such notice or demand shall take effect when received.
23. If any provision of this Lease shall be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable this Lease or any other provisions hereof and a valid and enforceable construction shall be given to the invalid and unenforceable provision to best reflect the commercial intent of the parties expressed herein. In the event such construction is not available, then the parties shall agree to replace the invalid provision with a valid provision which most closely reflects the commercial intent of the parties which is expressed herein.
24. No representations or promises shall be binding on the parties hereto except those representations and promises contained herein or in some future writing signed by the party making such representations or promises.
25. Landlord has made no representation or promises with respect to the said Premises except as herein expressly set forth. The taking of possession of the demised Premises by the Tenant shall be conclusive evidence as against the Tenant that the Tenant accepts the same "as is" and that said Premises and the building and fixtures of which the same form a part were in good and satisfactory condition at the time such possession was taken.
26. Landlord covenants that if, and so long as Tenant pays the rent and any additional rent as herein provided, and performs the covenants hereof, Tenant shall peaceably and quietly have, hold and enjoy the Premises for the term herein mentioned, subject to the provisions of this Lease.
27. This Agreement and the performance of the parties hereunder shall be construed in accordance with and governed by the laws of the State of New York. The parties agree that claims asserted or causes of action arising hereunder shall be submitted to the jurisdiction of the Courts of the State of New York and shall be venued in Genesee County.

NEW BUSINESS:

1. Recreation Appointment –

On **MOTION** by Supervisor Farnholz and seconded by Councilman Paddock and passed unanimously with voting as follows: Council Armitage, Pangrazio, Johnson, Paddock and Supervisor Farnholz – aye the following **RESOLUTION:**

RESOLVED, the Town Board of the Town of LeRoy appoints Becky Elmore to the position of Assistant Recreation Director, as per budgeted amount for the 2021 Recreation Season.

2. Deputy Clerk/Bookkeeper Appointment –

On **MOTION** by Supervisor Farnholz and seconded by Councilman Armitage and passed unanimously with voting as follows: Council Armitage, Pangrazio, Johnson, Paddock and Supervisor Farnholz – aye the following **RESOLUTION:**

RESOLVED, the Town Board of the Town of LeRoy appoints Mary Margaret Ripley to the position of Deputy Clerk/Bookkeeper at 37.5 hours per week at \$18.00/hour with full-time benefits with position appointment.

3. Priority Planning – 2022 Budget –

Supervisor Farnholz and Town Board reported the following items for consideration for 2022 Budget:

- Highway Garage Renovations – floors, doors and roofing.
- Unification of Town and Village Code through General Code Publishers.
- Conversion of Microfilm Records to Digital.
- Installation of Solar Energy at Transfer Station.

COMMITTEE REPORTS:

Highway:

Mowing Assistance – Town Highway –

On **MOTION** by Supervisor Farnholz and seconded by Councilman Armitage and passed unanimously with voting as follows: Council Armitage, Pangrazio, Johnson, Paddock and Supervisor Farnholz – aye the following **RESOLUTION:**

RESOLVED, the Town Board of the Town of LeRoy authorizes Tim Hogle to mow cemeteries under the Highway Dept. as needed and per 2021 Budget at \$15.00 per hour.

Genesee County Highway Dept. Roller –

Genesee County has a roller that will be auctioned. Towns of LeRoy, Stafford, Byron and Bergen would like to consider purchasing for stone and oil jobs.

On **MOTION** by Supervisor Farnholz and seconded by Councilman Paddock and passed unanimously with voting as follows: Council Armitage, Pangrazio, Johnson, Paddock and Supervisor Farnholz – aye the following **RESOLUTION:**

RESOLVED, the Town Board of the Town of LeRoy authorizes Town Highway Supt. Stauffer to purchase roller for a cost not to exceed \$5,000.00.

Highway Supt. Stauffer reported:

- Garage Roof Pricing will be \$37,500 for coating existing roof with eighteen-year warranty using white coating.
- North Street Road – Completed 1 ½ miles with assistance from nine municipalities and Village of LeRoy completed their portion.
- Thank you to LeRoy Village Police Dept. for assisting with traffic control during road project and ensuring the safety of workers and vehicles.

Assessment:

Supervisor Farnholz reported grievance day was held May 25th and was held via zoom with a note on the front door for directions on process.

Code:

Supervisor Farnholz reported Code Office continues to send notification of violations to owner of Route 5 Business Park on West Main Road.

Parks & Recreation:

Supervisor Farnholz reported:

- Opening date for pools and parks on June 24th.
- Swim lessons will not be held due to lack of lifeguard personnel.
- Lifeguard certification will be reimbursed to staff by LeRoy Pool Committee.
- Tennis Courts will be staffed with 2 park personnel with all other staff and programs at Wildwood.

IT:

Supervisor Farnholz reported new computers will be installed in court office through NYS Court system.

Transfer Station:

Councilman Johnson reported on looking at the flow of traffic and installing a new egress entrance.

Ambulance:

Councilman Johnson reported the mutual aid response calls are being investigated.

Village:

Councilman Pangrazio reported:

- Federal Grant for Wastewater treatment was rejected.
- Assemblyman Hawley held open house at Village Hall on May 22nd with three in attendance.
- SEQR report not completed for East Avenue PUD project.
- Information on new cannabis laws.
- Village Trustees would like code personnel to attend meetings to answer questions.
- Joint meeting will be held June 7th at Town Hall.

EXECUTIVE SESSION:

On **MOTION** by Supervisor Farnholz and seconded by Councilman Armitage and passed unanimously to enter into Executive Session at 8:11 PM for personnel and commercial venture with Town Board, Town Clerk and Highway Supt. present.

On **MOTION** by Councilman Paddock and seconded by Councilman Pangrazio and passed unanimously to come out of executive session at 8:58 PM with no action taken.

AUTHORIZATION TO PAY BILLS:

On **MOTION** by Councilman Johnson and seconded by Councilman Pangrazio and passed unanimously the following bills were presented for payment:

Abstract # 10	2020/2021	Voucher #
General Fund A, B, SL & Cap Proj H:	\$8,011.50	215~230
Highway Fund DA & DB:	\$3,776.12	84~89
Water Fund SW / HG:		

With no further business to come before the Board, on **MOTION** by Councilman Paddock and seconded by Councilman Armitage and passed unanimously to adjourn at 9:00 PM.

Respectfully Submitted, Patricia A. Canfield Town Clerk