

December 11, 2023

A meeting of the Town Board of the Town of Aurora took place on Monday, December 11, 2023, beginning at 7:05 p.m. The Board met in-person at the Aurora Municipal Center, 575 Oakwood Avenue, East Aurora, New York. The meeting was streamed via Zoom and YouTube.

Present:	Charles D. Snyder	Councilman
	Luke Wochensky	Councilman
	Joseph McCann	Councilman
	James F. Granville	Councilman
	James J. Bach	Supervisor
Others Present:	Brigid Maloney	Town Attorney
	David Gunner	Highway Superintendent
	Rich Miga	Asst. Code Enforcement Officer
	Paul Ernst	ZBA Chairman
	Doug Crow	Planning Board Chairman
	Rod Simeone	ZBA Member
	Elizabeth Wilber	Live Stream Coordinator
	Jim Malczewski	Erie County Legislator

Supervisor Bach opened the regular meeting at 7:05 p.m. following the work session.

Councilman McCann moved to approve the minutes of the November 27, 2023 work session and meeting. Councilman Granville seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried. Action #380 11/27/23 minutes aprvd

#### AUDIENCE I:

Rod Simeone, Byeberry Court, EA/ZBA member, asked the Board if the County owned property to the north of the parcel at 600 Olean was being rezoned also. The Board discussed the possibility of including the County parcel in the local law.

#### UNFINISHED BUSINESS:

Councilman McCann moved to table the request from the Friends of Knox Park for a Temporary Use Permit until after a meeting of a committee to discuss issues that may arise during the 2024 Solar Eclipse. Councilman Granville seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried. Action #381 TUP for KFSP eclipse event tabled

Councilman Wochensky moved to table the proposed local law to rezone 600 Olean Road (SBL#176.00-4-25.1) from Rural Residential and Agriculture to Commercial (C2) for the Town Attorney to add the parcel description of SBL#176.00-4-20 (former Erie County asphalt plant property aka 586 Olean) to the local law. Councilman Snyder seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried. Action #382 Local Law intro 6 – Olean rezoning tabled

Supervisor Bach stated the Site Plan for a 7.5 kW ground mounted solar electric PV system at 1204 Blakeley Road is an unlisted action for purposes of SEQRA. Mr. Bach noted that the answers to all eleven questions on the SEQR Short Environmental Assessment form Part 2 – Impact Assessment for the project are “No, or small impact may occur”. Councilman Snyder moved that the 7.5 kW ground mounted solar electric PV system proposed at 1204 Blakeley Road will not result in any significant adverse environmental impacts and a negative declaration is issued. Councilman Granville seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried. Action #383 Neg declaration issued for 1204 Blakeley solar project

Councilman McCann moved to approve the Special Use Permit for the 7.5 kW ground mounted solar electric PV system proposed at 1204 Blakeley Road (SBL#187.00-2-10.2), by CIR Electric for owner John Hughes, contingent upon receipt by the Town of a corrected site plan showing the power from the panels going to the house and not to the barn. Councilman Snyder seconded the motion. Upon a vote being taken: ayes – five noes – none  
 Motion carried.

Action #384  
 SUP for  
 Blakeley Rd  
 solar aprvd  
 with  
 contingency

**NEW BUSINESS:**

Councilman Snyder moved to approve the following new water rates for Town of Aurora private line water customers effective for the first quarter water use billing of 2024 based on rate increases by the Erie County Water Authority:

Private road/line	O&A New rate	Infrastructure New rate	R&M (no increase)	Minimum water use New rate	Minimum total New rate
Center/WestGate	\$20.03	\$18.10	\$25.00	\$23.66	\$86.79
Mitchell	\$20.03	\$15.79	\$25.00	\$21.12	\$81.94
Hickory (Sanford)	\$20.03	\$28.96	\$25.00	\$38.22	\$112.21
Mary Jane Ln	\$20.03	\$28.96	\$25.00	\$38.22	\$112.21
South Herrick	\$20.03	\$77.55	\$25.00	\$103.02	\$225.60

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

Action #385  
 2024 Private  
 line water  
 rates aprvd

Councilman McCann moved to set \$20.00 per hour as the pay rate for the following Town employees effective 1/1/2024:

- David Thomason Part-time Laborer
- Mark Gemerek Part-time Laborer
- Paul Keilich and to change Mr. Keilich’s title to Laborer Regular

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

Action #386  
 \$20 per hour  
 pay rate  
 aprvd for 3  
 PT hwy  
 employees

Councilman Granville moved to adopt the following Sexual Harassment Policy and replace the current policy with this updated policy; seconded by Councilman McCann:

**5.02 Sexual Harassment Policy**

**Purpose and Goals**

The Town of Aurora is committed to maintaining a workplace free from harassment and discrimination. Sexual harassment is a form of workplace discrimination that subjects an employee to inferior conditions of employment due to their gender, gender identity, gender expression (perceived or actual), and/or sexual orientation. Sexual harassment is often viewed simply as a form of gender-based discrimination, but the Town of Aurora recognizes that discrimination can be related to or affected by other identities beyond gender. Under the New York State Human Rights Law, it is illegal to discriminate based on sex, sexual orientation, gender identity or expression, age, race, creed, color, national origin, military status, disability, pre-disposing genetic characteristics, familial status, marital status, criminal history, or status as

a victim of domestic violence. Our different identities impact our understanding of the world and how others perceive us. For example, an individual's race, ability, or immigration status may impact their experience with gender discrimination in the workplace. While this policy is focused on sexual harassment and gender discrimination, the methods for reporting and investigating discrimination based on other protected identities are the same. The purpose of this policy is to teach employees to recognize discrimination, including discrimination due to an individual's intersecting identities, and provide the tools to take action when it occurs. All employees, managers, and supervisors are required to work in a manner designed to prevent sexual harassment and discrimination in the workplace. This policy is one component of the Town of Aurora commitment to a discrimination-free work environment.

Goals of this Policy:

Sexual harassment and discrimination are against the law. After reading this policy, employees will understand their right to a workplace free from harassment. Employees will also learn what harassment and discrimination look like, what actions they can take to prevent and report harassment, and how they are protected from retaliation after taking action. The policy will also explain the investigation process into any claims of harassment. Employees are encouraged to report sexual harassment or discrimination by filing a complaint internally with the Town of Aurora. Employees can also file a complaint with a government agency or in court under federal, state, or local antidiscrimination laws. To file an employment complaint with the New York State Division of Human Rights, please visit <https://dhr.ny.gov/complaint>. To file a complaint with the United States Equal Employment Opportunity Commission, please visit <https://www.eeoc.gov/filing-charge-discrimination>.

**Sexual Harassment and Discrimination Prevention Policy:**

1. The Town of Aurora's policy applies to all employees, applicants for employment, and interns, whether paid or unpaid. The policy also applies to additional covered individuals. It applies to anyone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in our workplace. These individuals include persons commonly referred to as independent contractors, gig workers, and temporary workers. Also included are persons providing equipment repair, cleaning services, or any other services through a contract with the Town of Aurora. For the remainder of this policy, we will use the term "covered individual" to refer to these individuals who are not direct employees of the company.
2. Sexual harassment is unacceptable. Any employee or covered individual who engages in sexual harassment, discrimination, or retaliation will be subject to action, including appropriate discipline for employees. In New York, harassment does not need to be severe or pervasive to be illegal. Employees and covered individuals should not feel discouraged from reporting harassment because they do not believe it is bad enough, or conversely because they do not want to see a colleague fired over less severe behavior. Just as harassment can happen in different degrees, potential discipline for engaging in sexual harassment will depend on the degree of harassment and might include education and counseling. It may lead to suspension or termination when appropriate.
3. Retaliation is prohibited. Any employee or covered individual that reports an incident of sexual harassment or discrimination, provides information, or otherwise assists in any investigation of a sexual harassment or discrimination complaint is protected from retaliation. No one should fear reporting sexual harassment if they believe it has occurred. So long as a person reasonably believes that they have witnessed or experienced such behavior, they are protected from retaliation. Any employee of the Town of Aurora who retaliates against anyone involved in a sexual harassment or discrimination investigation will face disciplinary action, up to and including termination. All employees and covered individuals working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, or the Town Supervisor's Office. All employees and covered individuals who believe they have been a target of such retaliation may also seek relief from government agencies, as explained below in the section on [Legal Protections](#).
4. Discrimination of any kind, including sexual harassment, is a violation of our policies, is unlawful, and may subject the Town of Aurora to liability for the harm experienced by targets of discrimination. Harassers may also be individually subject to liability and employers or supervisors who fail to report or act on harassment may be liable for aiding and abetting such behavior. Employees at every level who engage in harassment or discrimination, including managers and supervisors who engage in harassment or discrimination or who allow such behavior to continue, will be penalized for such misconduct.
5. The Town of Aurora will conduct a prompt and thorough investigation that is fair to all parties. An investigation will happen whenever management receives a complaint about discrimination or sexual harassment, or when it otherwise knows of possible discrimination or sexual harassment occurring. The Town of Aurora will keep the investigation confidential to the extent possible. If an investigation ends with the finding that discrimination or sexual harassment occurred, the Town of Aurora will act as required. In addition to any required discipline, the Town of Aurora will also take

steps to ensure a safe work environment for the employee(s) who experienced the discrimination or harassment. All employees, including managers and supervisors, are required to cooperate with any internal investigation of discrimination or sexual harassment.

6. All employees and covered individuals are encouraged to report any harassment or behaviors that violate this policy. All employees will have access to a complaint form to report harassment and file complaints. Use of this form is not required. For anyone who would rather make a complaint verbally, or by email, these complaints will be treated with equal priority. An employee or covered individual who prefers not to report harassment to their manager or employer may instead report harassment to the New York State Division of Human Rights and/or the United States Equal Employment Opportunity Commission. Complaints may be made to both the employer and a government agency. **The complaint form is available in the Town Supervisor's Office.** Managers and supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to the Town Supervisor's Office.
7. This policy applies to all employees and covered individuals, such as contractors, subcontractors, vendors, consultants, or anyone providing services in the workplace, and all must follow and uphold this policy. This policy must be provided to all employees in person or digitally through email upon hiring and will be posted prominently in all work locations. For those offices operating remotely, in addition to sending the policy through email, it will also be available on the organization's shared network.

### What Is Sexual Harassment?

Sexual harassment is a form of gender-based discrimination that is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender. Sexual harassment is not limited to sexual contact, touching, or expressions of a sexually suggestive nature. Sexual harassment includes all forms of gender discrimination including gender role stereotyping and treating employees differently because of their gender.

Understanding gender diversity is essential to recognizing sexual harassment because discrimination based on sex stereotypes, gender expression and perceived identity are all forms of sexual harassment. The gender spectrum is nuanced, but the three most common ways people identify are cisgender, transgender, and non-binary. A cisgender person is someone whose gender aligns with the sex they were assigned at birth. Generally, this gender will align with the binary of male or female. A transgender person is someone whose gender is different than the sex they were assigned at birth. A non-binary person does not identify exclusively as a man or a woman. They might identify as both, somewhere in between, or completely outside the gender binary. Some may identify as transgender, but not all do. Respecting an individual's gender identity is a necessary first step in establishing a safe workplace.

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment does not need to be severe or pervasive to be illegal. It can be any harassing behavior that rises above petty slights or trivial inconveniences. Every instance of harassment is unique to those experiencing it, and there is no single boundary between petty slights and harassing behavior. However, the Human Rights Law specifies that whether harassing conduct is considered petty or trivial is to be viewed from the standpoint of a reasonable victim of discrimination with the same protected characteristics. Generally, any behavior in which an employee or covered individual is treated worse because of their gender (perceived or actual), sexual orientation, or gender expression is considered a violation of the Town of Aurora's policy. The intent of the behavior, for example, making a joke, does not neutralize a harassment claim. Not intending to harass is not a defense. The impact of the behavior on a person is what counts. Sexual harassment includes any unwelcome conduct which is either directed at an individual because of that individual's gender identity or expression (perceived or actual), or is of a sexual nature when:

- The purpose or effect of this behavior unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment. The impacted person does not need to be the intended target of the sexual harassment;
- Employment depends implicitly or explicitly on accepting such unwelcome behavior; or
- Decisions regarding an individual's employment are based on an individual's acceptance to or rejection of such behavior. Such decisions can include what shifts and how many hours an employee might work, project assignments, as well as salary and promotion decisions.

There are two main types of sexual harassment:

- Behaviors that contribute to a **hostile work environment** include, but are not limited to, words, signs, jokes, pranks, intimidation, or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex, gender identity, or gender expression.

- Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory, or discriminatory statements which an employee finds offensive or objectionable, causes an employee discomfort or humiliation, or interferes with the employee's job performance.
- Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions, or privileges of employment. This is also called **quid pro quo** harassment.

Any employee or covered individual who feels harassed is encouraged to report the behavior so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be discrimination and is covered by this policy.

### **Examples of Sexual Harassment**

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited. **This list is just a sample of behaviors and should not be considered exhaustive.** Any employee who believes they have experienced sexual harassment, even if it does not appear on this list, should feel encouraged to report it:

- Physical acts of a sexual nature, such as:
  - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body, or poking another employee's body; or
  - Rape, sexual battery, molestation, or attempts to commit these assaults, which may be considered criminal conduct outside the scope of this policy (please contact local law enforcement if you wish to pursue criminal charges).
- Unwanted sexual comments, advances, or propositions, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion, or other job benefits;
    - This can include sexual advances/pressure placed on a service industry employee by customers or clients, especially those industries where hospitality and tips are essential to the customer/employee relationship;
  - Subtle or obvious pressure for unwelcome sexual activities; or
  - Repeated requests for dates or romantic gestures, including gift-giving.
- Sexually oriented gestures, noises, remarks or jokes, or questions and comments about a person's sexuality, sexual experience, or romantic history which create a hostile work environment. This is not limited to interactions in person. Remarks made over virtual platforms and in messaging apps when employees are working remotely can create a similarly hostile work environment.
- Sex stereotyping, which occurs when someone's conduct or personality traits are judged based on other people's ideas or perceptions about how individuals of a particular sex should act or look:
  - Remarks regarding an employee's gender expression, such as wearing a garment typically associated with a different gender identity; or
  - Asking employees to take on traditionally gendered roles, such as asking a woman to serve meeting refreshments when it is not part of, or appropriate to, her job duties.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace;
  - This also extends to the virtual or remote workspace and can include having such materials visible in the background of one's home during a virtual meeting.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, or gender expression, such as:
  - Interfering with, destroying, or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
  - Sabotaging an individual's work;
  - Bullying, yelling, or name-calling;
  - Intentional misuse of an individual's preferred pronouns; or

- Creating different expectations for individuals based on their perceived identities:
  - Dress codes that place more emphasis on women's attire;
  - Leaving parents/caregivers out of meetings.

### **Who Can be a Target of Sexual Harassment?**

Sexual harassment can occur between any individuals, regardless of their sex or gender. Harassment does not have to be between members of the opposite sex or gender. New York Law protects employees and all covered individuals described earlier in the policy. **Harassers can be anyone in the workplace.** A supervisor, a supervisee, or a coworker can all be harassers. Anyone else in the workplace can also be harassers including an independent contractor, contract worker, vendor, client, customer, patient, constituent, or visitor.

Sexual harassment does not happen in a vacuum and discrimination experienced by an employee can be impacted by biases and identities beyond an individual's gender. For example:

- Placing different demands or expectations on black women employees than white women employees can be both racial and gender discrimination;
- An individual's immigration status may lead to perceptions of vulnerability and increased concerns around illegal retaliation for reporting sexual harassment; or
- Past experiences as a survivor of domestic or sexual violence may lead an individual to feel re-traumatized by someone's behaviors in the workplace.

Individuals bring personal history with them to the workplace that might impact how they interact with certain behavior. It is especially important for all employees to be aware of how words or actions might impact someone with a different experience than their own in the interest of creating a safe and equitable workplace.

### **Where Can Sexual Harassment Occur?**

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer or industry sponsored events or parties. Calls, texts, emails, and social media usage by employees or covered individuals can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices, or during non-work hours.

Sexual harassment can occur when employees are working remotely from home as well. Any behaviors outlined above that leave an employee feeling uncomfortable, humiliated, or unable to meet their job requirements constitute harassment even if the employee or covered individual is at home when the harassment occurs. Harassment can happen on virtual meeting platforms, in messaging apps, and after working hours between personal cell phones.

### **Retaliation**

Retaliation is unlawful and is any action by an employer or supervisor that punishes an individual upon learning of a harassment claim, that seeks to discourage a worker or covered individual from making a formal complaint or supporting a sexual harassment or discrimination claim, or that punishes those who have come forward. These actions need not be job-related or occur in the workplace to constitute unlawful retaliation. For example, threats of physical violence outside of work hours or disparaging someone on social media would be covered as retaliation under this policy.

Examples of retaliation may include, but are not limited to:

- Demotion, termination, denying accommodations, reduced hours, or the assignment of less desirable shifts;
- Publicly releasing personnel files;
- Refusing to provide a reference or providing an unwarranted negative reference;
- Labeling an employee as "difficult" and excluding them from projects to avoid "drama";
- Undermining an individual's immigration status; or
- Reducing work responsibilities, passing over for a promotion, or moving an individual's desk to a less desirable office location.

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in "protected activity." Protected activity occurs when a person has:

- Made a complaint of sexual harassment or discrimination, either internally or with any government agency;
- Testified or assisted in a proceeding involving sexual harassment or discrimination under the Human Rights Law or any other anti-discrimination law;
- Opposed sexual harassment or discrimination by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of suspected harassment;
- Reported that another employee has been sexually harassed or discriminated against; or
- Encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

### **Reporting Sexual Harassment**

Everyone must work toward preventing sexual harassment, but leadership matters. Supervisors and managers have a special responsibility to make sure employees feel safe at work and that workplaces are free from harassment and discrimination. Any employee or covered individual is encouraged to report harassing or discriminatory behavior to a supervisor, manager or the Town Supervisor's Office. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager, or the Town Supervisor's Office.

Reports of sexual harassment may be made verbally or in writing. A written complaint form is attached to this policy if an employee would like to use it, but the complaint form is not required. Employees who are reporting sexual harassment on behalf of other employees may use the complaint form and should note that it is on another employee's behalf. A verbal or otherwise written complaint (such as an email) on behalf of oneself or another employee is also acceptable. **Complaint forms also are available in the Town Supervisor's Office.**

Employees and covered individuals who believe they have been a target of sexual harassment may at any time seek assistance in additional available forums, as explained below in the section on [Legal Protections](#).

### **Supervisory Responsibilities**

Supervisors and managers have a responsibility to prevent sexual harassment and discrimination. All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing or discriminatory behavior, or for any reason suspect that sexual harassment or discrimination is occurring, are required to report such suspected sexual harassment to the Town Supervisor's Office. Managers and supervisors should not be passive and wait for an employee to make a claim of harassment. If they observe such behavior, they must act.

Supervisors and managers can be disciplined if they engage in sexually harassing or discriminatory behavior themselves. Supervisors and managers can also be disciplined for failing to report suspected sexual harassment or allowing sexual harassment to continue after they know about it.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

While supervisors and managers have a responsibility to report harassment and discrimination, supervisors and managers must be mindful of the impact that harassment and a subsequent investigation has on victims. Being identified as a possible victim of harassment and questioned about harassment and discrimination can be intimidating, uncomfortable and re-traumatizing for individuals. Supervisors and managers must accommodate the needs of individuals who have experienced harassment to ensure the workplace is safe, supportive, and free from retaliation for them during and after any investigation.

### **Bystander Intervention**

Any employee witnessing harassment as a bystander is encouraged to report it. A supervisor or manager that is a bystander to harassment is **required** to report it. There are five standard methods of bystander intervention that can be used when anyone witnesses harassment or discrimination and wants to help.

1. A bystander can interrupt the harassment by engaging with the individual being harassed and distracting them from the harassing behavior;
2. A bystander who feels unsafe interrupting on their own can ask a third party to help intervene in the harassment;
3. A bystander can record or take notes on the harassment incident to benefit a future investigation;
4. A bystander might check in with the person who has been harassed after the incident, see how they are feeling and let them know the behavior was not ok; and
5. If a bystander feels safe, they can confront the harassers and name the behavior as inappropriate. When confronting harassment, physically assaulting an individual is never an appropriate response.

Though not exhaustive, and dependent on the circumstances, the guidelines above can serve as a brief guide of how to react when witnessing harassment in the workplace. Any employee witnessing harassment as a bystander is encouraged to report it. A supervisor or manager that is a bystander to harassment is required to report it.

### **Complaints and Investigations of Sexual Harassment**

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. An investigation of any complaint, information, or knowledge of suspected sexual harassment will be prompt, thorough, and started and completed as soon as possible.

The investigation will be kept confidential to the extent possible. All individuals involved, including those making a harassment claim, witnesses, and alleged harassers deserve a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. The Town of Aurora will take disciplinary action against anyone engaging in retaliation against employees who file complaints, support another's complaint, or participate in harassment investigations.

The Town of Aurora recognizes that participating in a harassment investigation can be uncomfortable and has the potential to retraumatize an employee. Those receiving claims and leading investigations will handle complaints and questions with sensitivity toward those participating.

While the process may vary from case to case, investigations will be done in accordance with the following steps. Upon receipt of a complaint, the Town Supervisor's Office:

1. Will conduct a prompt review of the allegations, assess the appropriate scope of the investigation, and take any interim actions (for example, instructing the individual(s) about whom the complaint was made to refrain from communications with the individual(s) who reported the harassment), as appropriate. If complaint is verbal, request that the individual completes the complaint form in writing. If the person reporting prefers not to fill out the form, the town Supervisor's Office will prepare a complaint form or equivalent documentation based on the verbal reporting;
2. Will take steps to obtain, review, and preserve documents sufficient to assess the allegations, including documents, emails or phone records that may be relevant to the investigation. The Town Supervisor's Office will consider and implement appropriate document request, review, and preservation measures, including for electronic communications;
3. Will seek to interview all parties involved, including any relevant witnesses;
4. Will create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
  - a. A list of all documents reviewed, along with a detailed summary of relevant documents;
  - b. A list of names of those interviewed, along with a detailed summary of their statements;
  - c. A timeline of events;
  - d. A summary of any prior relevant incidents disclosed in the investigation, reported or unreported; and
  - e. The basis for the decision and final resolution of the complaint, together with any corrective action(s).
5. Will keep the written documentation and associated documents in a secure and confidential location;
6. Will promptly notify the individual(s) who reported the harassment and the individual(s) about whom the complaint was made that the investigation has been completed and implement any corrective actions identified in the written document; and
7. Will inform the individual(s) who reported of the right to file a complaint or charge externally as outlined in the next section.

### **Legal Protections and External Remedies**

Sexual harassment is not only prohibited by the Town of Aurora, but it is also prohibited by state, federal, and, where applicable, local law.

The internal process outlined in the policy above is one way for employees to report sexual harassment. Employees and covered individuals may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may also seek the legal advice of an attorney.

#### **New York State Division of Human Rights:**

The New York State Human Rights Law (HRL), N.Y. Executive Law, art. 15, § 290 *et seq.*, applies to all employers in New York State and protects employees and covered individuals, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the New York State Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints of sexual harassment filed with DHR may be submitted any time **within three years** of the harassment. If an individual does not file a complaint with DHR, they can bring a lawsuit directly in state court under the Human Rights Law, **within three years** of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to the Town of Aurora does not extend your time to file with DHR or in court. The three years are counted from the date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases receive a public hearing before an administrative law judge. If sexual harassment is found at the hearing, DHR has the power to award relief. Relief varies but it may include requiring your employer to take action to stop the harassment, or repair the damage caused by the harassment, including paying of monetary damages, punitive damages, attorney's fees, and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: [www.dhr.ny.gov](http://www.dhr.ny.gov).

Go to [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint with DHR. The website has a digital complaint process that can be completed on your computer or mobile device from start to finish. The website has a complaint form that can be downloaded, filled out, and mailed to DHR as well as a form that can be submitted online. The website also contains contact information for DHR's regional offices across New York State.

Call the DHR sexual harassment hotline at **1(800) HARASS3** for more information about filing a sexual harassment complaint. This hotline can also provide you with a referral to a volunteer attorney experienced in sexual harassment matters who can provide you with limited free assistance and counsel over the phone.

### **The United States Equal Employment Opportunity Commission:**

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act, 42 U.S.C. § 2000e *et seq.* An individual can file a complaint with the EEOC anytime within 300 days from the most recent incident of harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred. If the EEOC determines that the law may have been violated, the EEOC will try to reach a voluntary settlement with the employer. If the EEOC cannot reach a settlement, the EEOC (or the Department of Justice in certain cases) will decide whether to file a lawsuit. The EEOC will issue a Notice of Right to Sue permitting workers to file a lawsuit in federal court if the EEOC closes the charge, is unable to determine if federal employment discrimination laws may have been violated or believes that unlawful discrimination occurred by does not file a lawsuit.

Individuals may obtain relief in mediation, settlement or conciliation. In addition, federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov).

If an individual filed an administrative complaint with the New York State Division of Human Rights, DHR will automatically file the complaint with the EEOC to preserve the right to proceed in federal court.

### **Local Protections**

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment or discrimination with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 22 Reade Street, 1st Floor, New York, New York; call 311 or (212) 306-7450; or visit [www.nyc.gov/html/cchr/html/home/home.shtml](http://www.nyc.gov/html/cchr/html/home/home.shtml).

### **Contact the Local Police Department**

If the harassment involves unwanted physical touching, coerced physical confinement, or coerced sex acts, the conduct may constitute a crime. Those wishing to pursue criminal charges are encouraged to contact their local police department.

### **Conclusion**

The policy outlined above is aimed at providing employees at the Town of Aurora and covered individuals an understanding of their right to a discrimination and harassment free workplace. All employees should feel safe at work. Though the focus of this policy is on sexual harassment and gender discrimination, the New York State Human Rights law protects against discrimination in several protected classes including sex, sexual orientation, gender identity or expression, age, race, creed,

color, national origin, military status, disability, pre-disposing genetic characteristics, familial status, marital status, criminal history, or domestic violence survivor status. The prevention policies outlined above should be considered applicable to all protected classes.

Upon a vote being taken: ayes – five      noes – none      Motion carried.  
\* \* \* \* \*

Action #387  
Updated  
sexual  
harassment  
policy  
adopted

Councilman Snyder moved to authorize the Supervisor to (digitally) sign the New York State Department of Transportation Office of Right of Way Permit for Temporary Use of State Property permit no. 51960 that will allow the placement of two (2) West Falls Hamlet welcome signs in the right of way of Route 240/Davis Road – one just north of Behm Road along the southbound lane and one across from 2075 Davis along the northbound lane. Councilman Granville seconded the motion. Upon a vote being taken:  
ayes – five      noes – none      Motion carried.

Action #388  
Supv auth to  
sign  
NYSDOT  
permit for W  
Falls Hamlet  
signs on Rte  
240

Councilman McCann moved to approve the following payments to Allgaier Construction Corp. for the Senior Center Door Replacement project:

- Payment no. 5 in the amount of \$1,485.00 for materials and services rendered through December 2023
- Payment no. 6 (final – including retainage) in the amount of \$8,800.00

Funds will be disbursed from A6772.201.  
Councilman Wochensky seconded the motion. Upon a vote being taken:  
ayes – five      noes – none      Motion carried.

Action #389  
Payment to  
Allgaier for  
SrCtr door  
project aprvd

Councilman Snyder moved to approve the full and final payment of \$27,300.00 to Ingelfinger Custom Contractor for materials and labor to construct a storage shed at the Aurora Town Library, 550 Main Street., E. Aurora. Councilman Granville seconded the motion. Upon a vote being taken: ayes – five      noes – none      Motion carried.

Action #390  
Payment to  
Ingelfinger  
for library  
shed aprvd

Councilman Granville moved to approve the following budget amendment for the purchase and installation of the Aurora Municipal Center sign that was approved at the 11/27/23 Town Board meeting:

- Decrease A1990 Contingent Account by \$2,900.00
- Increase appropriation line A1620.422 Buildings/Grounds by \$2,900.00

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

Action #391  
Budget  
amendment  
for AMC sign  
aprvd

Councilman Snyder moved to accept the resignation of Timothy Stroth as Town of Aurora Assistant Disaster Coordinator effective at the close of business on December 20, 2023. Councilman McCann seconded the motion. Upon a vote being taken: ayes – five      noes – none      Motion carried.

Action #392  
T. Stroth  
resignation –  
asst disaster  
coord  
accepted

#### COMMUNICATIONS AND REPORTS:

- Town Clerk – November 2023 report
- Town Clerk/Tax – November 2023 report
- Town Clerk/Water – November 2023 report
- Building Department – November 2023 report
- Dog Control – November 2023 report
- EAPD – October 2023 report
- Senior Center – November 2023 report
- Supervisor – November 2023 report

**BUSINESS FROM BOARD MEMBERS/LIAISONS:**

Councilman Granville thanked County Legislator Jim Malczewski for his service.

Supervisor Bach asked Mr. Malczewski to come up and address the Board.

County Legislator Malczewski stated that at the culmination of the Erie County budget negotiations he was able to secure CDBG and Cultural Capital Grant (CCG) funding from the County's 2024 budget for the following:

CDBG: \$5,000.00 for furniture for the Aurora Senior Center  
\$10,000.00 for the West Falls Performing Arts Center

CCG: \$50,000.00 for playground equipment for Town of Aurora Community Pool Park  
\$500,000.00 to the Friends of Knox Park to refurbish/repair the stone wall at Knox Park

Supervisor Bach thanked Mr. Malczewski for the great work he has done and for the funding he has provided to the Town.

AUDIENCE II: none

**STAFF REPORTS:**

Paul Ernst stated that it has been a very productive year for the ZBA and that there are five new ZBA cases for December.

Highway Superintendent Gunner stated that the plow truck that was damaged recently went back to the factory for mechanical and equipment repair. Other repairs will take place in Spring. Mr. Gunner noted that the new 2024 plow truck is being delivered early and thanked the Town of Tonawanda for lending his department a snow plow truck.

**ABSTRACT OF CLAIMS:**

The December 11, 2023 Abstract of Claims, consisting of vouchers numbered 1408 to 1478; and prepaid vouchers numbered 1479 to 1480, was presented to the Board for audit and authorization of payment from the following funds:

General	\$ 56,669.31
Highway/DB	7,778.55
Special Districts	<u>55,108.40</u>
Grand Total Abstract	\$119,556.26

Councilman McCann moved to approve the 11/27/2023 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 #393  
11/27/23  
Abstract of  
Claims aprvd

Councilman McCann moved to adjourn at 7:30 p.m. Seconded by Councilman Snyder. Upon a vote being taken: ayes – five noes – none  
Motion carried.

Action #394  
Meeting  
adjourned

Martha L. Librock  
Town Clerk