

VILLAGE OF PORT DICKINSON
Village Board Meeting Agenda
March 9, 2021
6:00 pm
Port Dickinson Village Hall

Meeting ID: 822 5925 1896
Passcode: 520993

Please take a moment to ensure that your cellphones are OFF or SILENCED.

CALL TO ORDER

County Executive Jason Garner, State of the County update

PUBLIC HEARING: none

APPROVAL OF MINUTES: February 23, 2021 meeting

PUBLIC PARTICIPATION:

TREASURER'S REPORT:

AUDIT & PAYMENT OF CLAIMS #14 (2020-2021)

1. Abstract of Unaudited vouchers for the General Fund for \$
2. Abstract of Unaudited vouchers for the Water Fund for \$
3. Abstract of Unaudited vouchers for the Sewer Fund for \$

COMMUNICATIONS:

TRUSTEE-COMMISSIONER REPORTS:

Administration/Community Association – Charles Harding, Trustee

Public Works – Michael Cashman, Trustee

Planning - none

Public Safety – James DeGennaro, Trustee

Parks, Water & Sewer – Robert Moss, Trustee

1. *347 remote meters installed (59%), 243 remaining.*

Zoning Board of Appeals – none

OLD BUSINESS:

RESOLUTIONS FOR APPROVAL:

1. Resolution authorizing Hulbert Engineering to provide the engineering report, and Congdon & Company to provide an appraisal regarding the Phelps St compost property
2. Resolution amending Police Department Rules and Regulations
3. Resolution to schedule a Public Hearing on 2/23/2021 at 5:00PM for a Local Law 2-2021 as follows:

NEW BUSINESS/DISCUSSION:

ADJOURNMENT

Village Water Consumption for : Feb-21

Read dates:	Binghamton meter	Fenton Large	Fenton Small
3/1/2021	36132400	19756994	4271252
1/31/2021	36132400	19137502	4176518
Usage	0	619492	94734

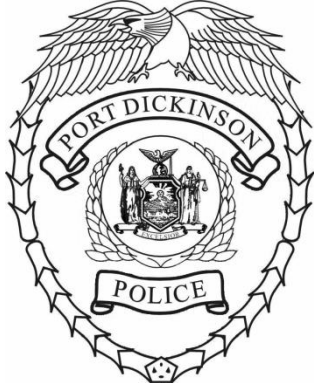
Total cubic ft: 714226

Read dates:	Town of Fenton Sewer Readings		Rate:	0530x.01
3/1/2021	51025800			cu. Ft/min
1/31/2021	50900100		Time:	9:00am
Total	125700	cu. ft.		

Read dates: Wayne Ave. sewer station readings (hours):

	Pump1	Pump 2	Pump 3
3/1/2021	6016	18757	17254
1/31/2021	5991	18732	17230
Totals	25	25	24

Total hrs. 74



The Village of Port Dickinson
 Department of Police
 Douglas E. Pipher, Chief of Police

Police Department Monthly Report

Report Month:	February	Police Commissioner:	Trustee J. DeGennaro
Report Year:	2021	Chief:	Douglas Pipher
Report Date:	03/03/2021	Deputy Village Clerk:	Corina M. Beames

Total Complaints Received: 92 (99)

Med calls-6	Larceny-3
Suspicious-1	Criminal mischief-1
PDFD-2	
Dispute-1	
Domestic-2	
Check welfare-3	
DV-3	
Fraud-2	
Unattended death-1	

Miscellaneous-65 *Includes Lockouts, Alarms, Parking Comp., Animals, Traffic lights, Information, village reassurance program, code enforcement, special details, vacant properties, assist public and Etc.

Assist Other Agencies-(2)

BCSO

Run aways-1

BPD

MVA PD-1

Charges- 0 (0)

Parking tickets issued-0

Vehicle and Traffic tickets-0

Patrol vehicle #492

- A. Starting Mileage-47565
- B. Ending Mileage-47820
- Total Mileage-255

Patrol Vehicle #491

- A. Starting Mileage -99674
- B. Ending Mileage- 101506
- Total Mileage-1832

**Report of the
CHIEF
February 2021**



Alarms

ALARMS		RESPONSE		TIMES	
Fire	6	Avg Members Response (F)	3	Med Avg	2
EMS	8	Avg Alarm to Response	0:06	0700-1500	6
Standby	1	Avg Alarm to Arrival	0:05	1500-2300	7
Total		Total Time in Service (hh:mm)	5:46	2300-0700	2
MUTUAL AID		LOCATION		DOLLAR LOSS/VALUE	
Given	3	Village of Port Dickinson	8	Fire Loss	
Received	1	Town of Dickinson			
Engine 99		Town of Fenton	3		
No Tone		Town of Chenango	1		
		Town of Kirkwood	2		
		City of Binghamton			
		Other	1		
CASUALTIES					
		Fire Service Injured	0		
		Fire Service Death	0		
		Civilian Injured	0		
		Civilian Death	0		

CODE	DESCRIPTION	YTD	YTD	CODE	DESCRIPTION	YTD	YTD
111	Building Fire	1	1	322	MVA w/Injuries	1	2
112	Structure/No Building			400	Hazardous Condition	3	6
113	Cooking Fire			411	Flammable Liquid Spill		
114	Chimney			412	Natural/LP Gas Leak		
116	Burner/Boiler/Furnace			424	CO Detector Activation		
118	Trash/Inside Building			463	MVA no Injuries		
121	Mobile Home Residence			500	Service Call		
130	Vehicle (All)			531	Smoke/Odor Removal		
141	Forrest/Woods/Wild Land			561	Open Burning		
142	Brush/Grass			571	Cover Assign/Standby	1	2
150	Trash/Outside Fires			600	Good Intent Call		
163	Outside Gas/Vapor Exp			611	Cancelled en Route		
170	Garden/Orchard/Crops			710	False Malicious		
200	Over Pressure Rupture			730	False Malfunction		
240	Explosion/No Fire			740	False Unintentional	1	2
243	Fireworks Exposure/No Fire			800	Severe Weather		
300	Rescues/EMS	8	22	900	Special Incident		

**VILLAGE OF PORT DICKINSON
LOCAL LAW NO. 2 FOR THE YEAR 2021
LOCAL LAW TO OVERRIDE THE TAX LEVY LIMIT
ESTABLISHED IN GENERAL MUNICIPAL LAW §3-C**

Be it enacted by the Village Board of the Village of Port Dickinson as follows:

Section 1. Legislative Intent.

It is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the Village of Port Dickinson pursuant to General Municipal Law §3-c, and to allow the Village of Port Dickinson to adopt a budget for the fiscal year beginning June 1, 2021 and ending May 31, 2022 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law §3-c.

Section 2. Authority.

This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes the Village Board to override the tax levy limit by the adoption of a local law approved by vote of at least sixty percent (60%) of the Village Board.

Section 3. Tax Levy Limit Override.

The Village Board of the Village of Port Dickinson, County of Broome is hereby authorized to adopt a budget for the 2021/2022 fiscal year that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law §3-c.

Section 4. Remainder

Except as hereinabove amended, the remainder of the Code of the Village of Port Dickinson shall remain in full force and effect.

Section 5. Separability

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this local law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this local law would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and as if such person or circumstance, to which the local law or part thereof is held inapplicable, had been specifically exempt therefrom.

Section 6. Effective Date

This Local Law shall take effect immediately upon filing with the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

142.20 – USE OF FORCE

I. PURPOSE:

- A. To establish within the Port Dickinson Police Department a policy concerning the use of force and an investigation system to be used in the event of a member using physical force.

II. DEFINITIONS:

- a. **Objectively Reasonable** – An objective standard used to judge an officer’s actions. Under this standard, a particular application of force must be judged through the perspective of a reasonable officer facing the same set of circumstances, without the benefit of 20/20 hindsight, and be based on the totality of the facts that are known to that officer at the time that the force was used.
- b. **Deadly Physical Force** - Physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury.
- c. **Physical Injury** – Impairment of physical condition or substantial pain.
- d. **Serious Physical Injury** – Physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.⁶

(Rev.02/04//21)

III. POLICY:

- A. All officers may use only that level of force that is necessary and objectively reasonable in performance of their duties within the limits established by Article 35 of the New York State Penal Law and consistent with the training given by the P.D.P.D. It is the responsibility of each officer to be aware of the requirements of Article 35, and Defense of Justification 35.00 -35.30 which will be provided during annual training in conjunction with firearms training.

IV. DISCUSSION:

1. **ARTICLE 35.30, NEW YORK STATE PENAL LAW.** A police officer in the course of effecting or attempting to effect an arrest, or of preventing or attempting to prevent the escape from custody, of a person whom he reasonably believes to have committed an offense, may use physical force when and to the extent he reasonably believes such to be necessary to effect the arrest, or to prevent the escape from custody, or to defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force; EXCEPT that deadly physical force may be used for such purposes only when he or she reasonably believes that:
 - Regardless of the particular offense which is the subject of the arrest or attempted escape, the use of deadly physical force is necessary to defend the police officer or another person from what the officer reasonably believes to be the use or imminent use of deadly physical force
2. **REASONABLENESS FACTORS.** Factors that may be used in determining the reasonableness of force include, but are not limited to:
 1. The severity of the crime or circumstance;
 2. The level and immediacy of threat or resistance posed by the suspect;

3. The potential for injury to citizens, officers, and suspects;
4. The risk or attempt of the suspect to escape;
5. The knowledge, training, and experience of the officer;
6. Officer/subject considerations such as age, size, relative strength, skill level, injury or exhaustion, and the number of officers or subjects;
7. Other environmental conditions or exigent circumstances.

3. DUTY TO INTERVENE.

- a) Any officer present and observing another officer using force that he/she reasonably believes to be clearly beyond that which is objectively reasonable under the circumstances shall intercede to prevent the use of unreasonable force, if and when the officer has a realistic opportunity to prevent harm.
- b) An officer who observes another officer use force that exceeds the degree of force as described in subdivision A of this section should promptly report these observations to a supervisor.

V. PROCEDURES.

A. PHYSICAL FORCE GUIDELINES

1. Utilizing Headlocks or Chokeholds are prohibited at all times unless deadly physical force is authorized
2. Once a subject is handcuffed and as soon as practical, the use of a face-down position restraint should be avoided. The subject should be turned on their side or placed in a seated position. If it is necessary to position a person face-down under restraint, then the subject must be closely and continuously monitored
3. If the subject continues to struggle, officers shall not sit or kneel on their back. If practical, officers should consider holding their legs down, wrapping their legs with a strap or securing with an ankle restraint.
4. Officers shall not tie or connect the handcuffs to a leg or ankle restraint.

(Rev.02/04/21)

B. PROHIBITED USES OF FORCE

- Force shall not be used by an officer for the following reasons:
 - To extract an item from the anus or vagina of a subject without a warrant, except where exigent circumstances are present;
 - To coerce a confession from a subject in custody;
 - To obtain blood, saliva, urine, or other bodily fluid or cells, from an individual for the purposes of scientific testing in lieu of a court order where required;
 - Against persons who are handcuffed or restrained unless it is used to prevent injury, escape, or otherwise overcome active or passive resistance posed by the subject.

(Rev.02/22/21)

C. FOR MEMBERS USING FORCE

1. Any employee using physical force pursuant to their duties as a law enforcement officer, whether on or off duty, shall report all facts relative to the incident on a "SUBJECT MANAGEMENT REPORT." (See addendum #2 attached.)
2. Only designated and approved equipment will be carried on duty and used when applying physical force.
3. Use of restraining devices is mandatory on all arrestees unless, in the officer's judgement, unusual circumstances exist which make the use of restraining devices impossible. The mere use of handcuffs on an arrestee will not be construed to be use of physical force. However, when the handcuffs become an appliance to exert force necessary to further subdue a subject or where the suspect physically resists the application of handcuffs, a use of force has occurred and the required reports must be completed.
4. Immediately after any physical force is used, the officer shall evaluate the need for medical attention or treatment for the person upon whom the physical force was used and arrange for such treatment when:
 - a. that person has a visible injury.
 - b. that person complains of injury or request medical attention.
 - c. chemical spray was used.
 - d. Taser was used.
5. The employee shall immediately notify the Chief or Sergeant of the incident. In cases when the incident occurred while off duty the officer shall follow the same protocol.
6. Officers shall attempt to locate and identify any witnesses and obtain statements from them.
7. If more than one officer is involved in a Use of Force incident, the officer who initiated the use of force shall complete the Subject Management Report detailing only their involvement or use of force. All other officers shall complete a supplemental report detailing their involvement or use of force. Copies of all reports will be forwarded together, along with any applicable reports to the Chief of Police.

II. SUPERVISORY RESPONSIBILITIES (CHIEF OF POLICE OR HIS DESIGNEE):

1. At the scene:
 - i. The supervisor shall respond to the scene of incident immediately after learning of the use of force by an officer if necessary.
 - ii. Supervisor shall insure that employees receive any necessary assistance, including medical treatment. They will also ensure that any injuries to employees are properly documented and reported.
 - iii. Supervisor will determine what level of investigation will be utilized; including photos, measurements and diagrams, seeking assistance from an outside agency if warranted.
 - iv. The supervisor shall include a written report documenting his actions and the facts of the incident.
2. Additional Responsibilities
 - i. Notify the Village / County Attorney as necessary.
 - ii. Establish and maintain a liaison with the District Attorney.
 - iii. Present the case to the District Attorney for review.

- iv. Keep the involved officer apprised of the status of the investigation.
- v. At the conclusion of both the criminal and/or departmental investigation, make the final determination of action to be taken.
- vi. Review policies, training, etc., for possible improvement.

III. REVIEW OF FORCE CAUSING INJURIES:

- When any member uses force which is alleged to result in injury or death of another, the Chief shall review such case to ensure:
 - a. The rules and regulations of this department were followed.
 - b. Documentation is retained in the event of future litigation.
 - c. Additional training is provided if necessary.
 - d. The incidents involving the use of force are properly evaluated.

(Rev. 02/22/21)

IV. EXECUTIVE LAW 837-t (See addendum #1 attached)

Effective, July 11, 2019, Executive Law 837-t requires each police department, county sheriff, and the state police to report any occurrence in which a police officer or peace officer employs the use of force. The P.D.P.D. Administration will be responsible for reporting information for officers who are involved in use of force incidents that meet the criteria of data collection. Details required to be submitted to DCJS include the date of incident, agency involved, county, town/city, description of circumstances, and demographics of all persons engaging in the use of force or suffering such injury. Incidents involving use of force which are required to be reported are described as:

- a. When an officer engages in conduct which results in the death or serious bodily injury of another person. Serious bodily injury is defined as bodily and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.
- b. When one of the following is initiated by an officer:
 - Brandishes, uses, or discharges a firearm at or in the direction of another person;
 - Displays, uses, or deploys a chemical agent, including, but not limited to, oleoresin capsicum, pepper spray, or tear gas;
 - Brandishes, uses, or deploys an impact weapon, including, but not limited to, a baton or Asp;
 - Brandishes, uses, or deploys an electronic control weapon, including, but not limited to, a Taser.

(Rev. 01/27/21)

Addendum #1

EXECUTIVE LAW SECTION 837-t

Executive

* § 837-t. Use of force reporting. 1. The chief of every police department, each county sheriff, and the superintendent of state police shall report to the division, in a form and manner as defined in regulations by the division, any instance or occurrence in which a police officer, as defined in subdivision thirty-four of section 1.20 of the criminal procedure law, or a peace officer, as defined in section 2.10 of the criminal procedure law, employs the use of force as follows:

- a. brandishes, uses or discharges a firearm at or in the direction of another person; or
- b. uses a chokehold or similar restraint that applies pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air; or
- c. displays, uses or deploys a chemical agent, including, but not limited to, oleoresin capsicum, pepper spray or tear gas; or
- d. brandishes, uses or deploys an impact weapon, including, but not limited to, a baton or billy; or
- e. brandishes, uses or deploys an electronic control weapon, including, but not limited to, an electronic stun gun, flash bomb or long range acoustic device; or
- f. engages in conduct which results in the death or serious bodily injury of another person. Serious bodily injury is defined as bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss of impairment of the function of a bodily member, organ or mental faculty.

2. On an annual basis, the commissioner shall conspicuously publish on the department's website a comprehensive report including the use of force information received under subdivision one of this section during the preceding year. Such reports shall not identify the names of the

individuals involved, but for each event reported, shall list the date of the event, the location disaggregated by county and law enforcement agencies involved, the town or city, and any additional relevant location information, a description of the circumstances of the event, and the race, sex, ethnicity, age, or, if unknown, approximate age of all persons engaging in the use of force or suffering such injury.

* NB Effective July 11, 2019

Addendum #2

Port Dickinson Police Department

Subject Management Report

Port Dickinson Police Department Call -or- Assist Other Law Enforcement Agency

Subject's Name: _____ Complaint #: _____

Date of Incident : _____ Location of Incident: _____

Time of Incident : _____

Management Control Used : *(Check All That Apply)*

Verbal Commands Oleoresin Capsicum Empty Handed Control Canine Taser
 Intermediate Impact Weapon Firearm Shotgun Carbine Other (*Explain*)

Describe the subject's actions that prompted the reporting officer to use reactive force: *(Examples: The subject's verbal threats, demeanor, level of resistive tension, size, age, skill level, additional subjects, special knowledge or training, previous contacts, etc.)*

