

**Mayville, NY**

**Regular Meeting**

**November 14, 2022**

**Present:** Supervisor Donald Emhardt, Councilmen Kenneth Burnett, Al Akin, Thomas Carlson and Scott Cummings. Highway Superintendent, Dan Thorsell, Code Officer, Ken Shearer, Town Clerk, Rebecca Luba and Justice, Tim Hull.

**Others Present:** Greg Bacon(Post-Journal), Karen Gross, Jesse & Shannon Kresek, Kevin Coyle, Karen Engstrom, Sharon Smead, Jeff & Sandi Wagner, Mark Smith, Rick Syper, Tim Wendell, Loraine Thorsell, Ken Mulkins, Rob Hetrick, Joe Roll, Seth Damcott, Mike Schnell, Terry & Melissa Sanden.

Supervisor Donald Emhardt opened the regular meeting at 7:00 P.M. with the Pledge of Allegiance.

**Motion** made by Councilman Scott Cummings to approve the minutes as presented for the regular meeting on 10/11/22 and special meetings held 10/25/22 and 11/08/22.

**Second:** Councilman Kenneth Burnett

**Vote:** Supervisor Donald Emhardt – Aye  
Councilman Scott Cummings – Aye  
Councilman Thomas Carlson – Aye  
Councilman Kenneth Burnett – Aye  
Councilman Al Akin - Aye

**Carried**

### **Departmental Reports:**

Town Clerk report was submitted and filed. Fees collected for October totaled \$27,192.71 and disbursed as follows:

Supervisor-A Fund: \$2,834.77 B Fund: \$300.00, SS1 Fund: 18,098.08 SW3 Fund \$5,130.68  
NYS DEC license sales: \$622.68, NYS Animal Population Control program: \$112.50, Dept. of Health \$94.00. 5 Marriage licenses were issued, and 4 record requests completed. Dog license renewals mailed for November and reminders for all expired licenses. 2<sup>nd</sup> Notices for Quarterly sewer/water bills mailed. All unpaid utilities as of 11/17/22 will be levied to the 2023 Town/County tax. School Tax Collection ended 11/04/22. Final reports are being prepared for the County. Our office has started the preparations for the 2023 Town/County tax collection projected to start January 5, 2023.

Code Enforcement report submitted. Total of 22 building permits issued for October with project values totaling \$1,292,100.00 and 8 Certificates of Completion issued with project values totaling \$232,112.00

Highway report submitted and on file. Trucks have been equipped with snowplow equipment. Installed 40' pipe on Elm Flat Rd. and 20' pipe on Haight Rd. Used CAT excavator and Gradall to cut brush on backside of ditches. Helped Village fabricate push box to fit their new loader and hauled stone for the next summer season.

Assessor's report was submitted and filed with the Clerk's office. 2023 exemptions renewals have been mailed. Property owners must reapply by March 1, 2023. The office is reviewing building permits and conducting fieldwork for the 2023 assessment roll. The 2022 assessment roll will be forwarded to the County Tax Office for the calculation of tax rates for the Town and County tax bills.

### **Committee Reports:**

HR Committee: Councilman Cummings reported that the annual insurance meeting was held on 10/25/22. Summary was copied to the Board with the committee's recommendations for the 2023 health insurance plan and is listed as an agenda item for further discussion and action.

Comprehensive Plan. Councilman Cummings reported post-cards have been mailed to all residents in the Town and Village. The survey will be open until the end of December. Hard copies are available for residents unable to complete the survey online. We are still waiting on the formation of the steering committee.

**Public Comment- Non-Agenda Items:**

Karen Engstrom distributed information

**Agenda:**

**Special Use Permit-We Store It, LLC Boat Storage Building**

The Board continued their review and discussion of the SUP application submitted by We Store It, LLC to construct a new 70'x104' pole barn storage building located on Mather Rd.

The Board noted that their on-site observations of the project did not pose any additional drainage issues to neighboring properties.

Neighbors, Jesse and Shannon Kresek, disagreed with the Board stating there is still a water run-off issue negatively impacting their property. Karen Gross stated she is working with the Army Corp. of Engineers to have a full investigation conducted. No documentation was provided backing these concerns.

In addition to the Board's personal observation, an inspection report dated August 17, 2022 was received from Chautauqua County Soil & Water stating all work to improve water detention on the parcel was completed and satisfactory. It also noted that the topography of the site prohibits conveying water anywhere other than its current path under Meadow Lane in to Mud Creek.

**SEQRA-Negative Declaration**

**WHEREAS**, We Store It, LLC., has applied for a Special Use Permit allowing it to construct a 70' x 104' pole barn to be used for boat storage on Mather Road Extension, Town of Chautauqua, New York, on property designated as tax map parcel Section 262.00, Block 3, Lot 10, and

**WHEREAS**, the proposed use has been subject to environmental review pursuant to Article 8 of the New York State Environmental Conservation Law (State Environmental Quality Review Act), including the preparation and review of a short Environmental Assessment Form, and

**WHEREAS**, Part 617 of the implementing regulations pertaining to the State Environmental Quality Review Act requires this Board to determine and give notice of the environmental impact of the proposed use, and

**WHEREAS**, the Board has determined that the proposed use will not have a significant environmental impact,

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board hereby issues a Notice of Determination of Non-Significance, also known as a Negative Declaration, for the proposed use, and authorizes the Supervisor to sign Part III of the Environmental Assessment Form accordingly.

**Motion** made by Councilman Al Akin to adopt the negative declaration as presented.

**Second:** Councilman Thomas Carlson

**Vote:** Supervisor Donald Emhardt – Aye  
Councilman Scott Cummings– Aye  
Councilman Thomas Carlson – Aye  
Councilman Kenneth Burnett – Aye  
Councilman Al Akin – Aye

**Carried**

### **Special Use Permit**

To consider the application of We Store It, LLC, for a Special Use Permit allowing it to construct a 70' x 104' commercial storage building for the storage of boats on property located on Mather Road Extension, and designated as tax map parcel Section 262.00, Block 3, Lot 10.

**WHEREAS**, We Store It, LLC, hereinafter called the “applicant”, has submitted a special use permit application requesting permission to construct a 70' x 104' pole barn in which it intends to store boats, and

**WHEREAS**, the issue of compliance with the State Environmental Quality Review Act (SEQRA) has been addressed since the applicant submitted Part I of the Environmental Assessment Form, and a negative declaration was issued after careful consideration of all potential adverse environmental impacts, an examination of the record, and a public hearing, and

**WHEREAS**, the proposed use was the subject of a public hearing held by the Zoning Board of Appeals in regards to its zoning impact, held August 16, 2022, after publication of legal notice, at which time all persons having an interest in the application were heard, and recommendations in writing were made by that board, and

**WHEREAS**, the Town Board has considered all the facts and papers before it, including the recommendations of the Town of Chautauqua Zoning Board of Appeals made after the August 16, 2022 hearing, and all SEQRA issues, and having heard those wishing to be heard at a public hearing held October 11, 2022, after publication of legal notice, and finding ample justification in approving the application subject to the qualifications hereinafter set forth, now

**THEREFORE, BE IT RESOLVED**, that the application for a Special Use Permit to construct a 70' x 104' commercial storage building on Mather Road, be and hereby is authorized and approved subject to the conditions and requirements hereinafter set out:

1. The applicant shall undertake this project in accordance with the maps submitted to the Town with the application, and to be bound by the terms of the application, the maps, and the conditions of this permit.
2. This permit is a modification and extension of the Special Use Permits issued by the Town for the construction of other storage buildings on the same site.

3. The applicant shall comply with all reasonable requests of the Town's Code Enforcement Officer with regard to the installation of hay bales and other measures designed to minimize the effect of surface water runoff on neighboring properties both during and after construction.
4. This permit shall not be assigned or transferred, in whole or in part, without the prior written consent of the Town.
5. This permit does not authorize the erection of the buildings without building permits that are otherwise required by state or local law.
6. The applicant shall commence construction within one year of the issuance of this Permit. If construction has not begun within the prescribed time, this Special Use Permit shall be void and the applicant shall be required to apply for a new Permit should it intend to continue the project.
7. Any failure or omission on the part of the applicant to carry out the conditions or requirement herein or accordance with the terms or requirements of any statute, local law, ordinance or regulation, may be deemed a violation of the Town of Chautauqua Zoning Law and unless corrected in not more than 10 days following the service of written notice of such violation upon the applicant, may subject the applicant to the penalties therein. Continued violations after written notice may result in revocation of this Special Use Permit.
8. This Special Use Permit shall become effective after the applicant approves each and every provision hereof and agrees to be bound by all of the terms of herein contained in consideration of the granting of this Special Use Permit.

**Motion** made by Councilman Al Akin to approve the Special Use Permit as presented.

**Second:** Councilman Thomas Carlson

**Vote:** Supervisor Donald Emhardt – Aye  
Councilman Scott Cummings– Aye  
Councilman Thomas Carlson – Aye  
Councilman Kenneth Burnett – Aye  
Councilman Al Akin – Aye

**Carried**

### **Local Law 4 of 2022 – Introduction of Law for The Administration of the NYS**

#### **Uniform Fire Prevention and Building Code- Chapter 74 Revisions**

With changes to the NYS Uniform Fire Prevention and Building Code, the Town Code, Chapter 74, needs to be updated. A copy of the Local Law, prepared by the Town's Attorney, was distributed to all Board members including the Code Enforcement office for review. A copy was also filed in the Town Clerk's office for review by the public during regular business hours and will be posted on the Town's website.

**Motion:** by Councilman Scott Cummings to set a public hearing for Local Law 4 of 2022 on Monday, December 12, 2022 at 7:15P.M.

**Second:** Councilman Kenneth Burnett

**Vote:** Supervisor Donald Emhardt – Aye

Councilman Scott Cummings – Aye  
Councilman Dave Ward – Aye  
Councilman Thomas Carlson – Aye  
Councilman Kenneth Burnett – Aye

**Carried**

### **Agreement- Municipal Solutions Proposal**

A proposal was submitted by Municipal Solution to assist the Town with continuing disclosure filings and regulations for bonds and notes issued to the Town for Capital Projects.

**Motion** made by Councilman Thomas Carlson to approve the proposal authorizing the Town Supervisor to execute the agreement as presented approving the total filing fee not to exceed \$460.00.

**Second:** Councilman Alan Akin

**Vote:** Supervisor Donald Emhardt – Aye  
Councilman Scott Cummings – Aye  
Councilman Thomas Carlson – Aye  
Councilman Kenneth Burnett – Aye  
Councilman Al Akin – Aye

**Carried**

### **Water District 2 Water Supply and Extension- WIIA Grant**

The Town was awarded the NYS Water Infrastructure Improvement (WIIA) grant in the amount of \$4,020,000.00 for the Chautauqua Water District No. 2 Water Supply.

**Motion** made by Councilman Scott Cummings to accept the grant for Water District No. 2

**Second:** Councilman Thomas Carlson

**Vote:** Supervisor Donald Emhardt – Aye  
Councilman Scott Cummings – Aye  
Councilman Thomas Carlson – Aye  
Councilman Al Akin – Aye  
Councilman Kenneth Burnett – Aye

**Carried**

### **Sewer District No. 1- South Extension- EPG Grant**

The Town was awarded a Wastewater Infrastructure Engineering Planning Grant (EPG) from New York State Environmental Facilities Corporation in the amount of \$50,000.00 for the Chautauqua Sewer District No. 1 South Extension.

**Motion** made by Councilman Alan Akin to accept the grant for Water District No. 2 and authorizes the Town Supervisor to execute the award acknowledgement as presented.

**Second:** Councilman Kenneth Burnett

**Vote:** Supervisor Donald Emhardt – Aye  
Councilman Scott Cummings – Aye  
Councilman Thomas Carlson – Aye  
Councilman Al Akin – Aye  
Councilman Kenneth Burnett – Aye

**Carried**

### **Water District 4- Roads and Easements**

Town attorney stated the easements have been received. Still waiting on final report from engineer. Councilman Cummings inquired whether the as-built drawings were submitted for the project.

Supervisor Emhardt will check with the engineer and request them from the developer if they haven't already been submitted.

### **Financial Support- Chautauqua Lake Association**

Supervisor requested making a financial donation to the Chautauqua Lake Association(CLA) for their assistance with the lake clean-up program. The Board reviewed funds still available in the budget for lake maintenance.

**Motion** made by Councilman Kenneth Burnett to donate \$10,000.00 to the CLA in accord with the 2022 budget.

**Second:** Councilman Thomas Carlson

**Vote:** Supervisor Donald Emhardt – Aye  
Councilman Scott Cummings – Aye  
Councilman Al Akin – Aye  
Councilman Thomas Carlson – Aye  
Councilman Kenneth Burnett – Aye

**Carried**

### **Employee Benefits- Health Savings Account**

Due to lower premiums being introduced in 2009, the Town was able to implement a fully funded Health Reimbursement Account (HRA) to offset the higher deductible plans. Recently, there has been a shift in rates. While deductibles decrease, premiums are rising an average of 10-15% each year. In addition, the out-of-pocket expense after deductible has significantly increased exceeding the HRA allotment for employees. By switching the current HRA to individual Health Savings Accounts (HSA), employees would have the option to add additional funds to their accounts to help offset the higher out-of-pocket expenses not covered by the HRA allotment.

The committee recommended switching the current group HRA to individual HSAs initially funding it \$5,200/family and \$2,600/individual.

Joe Roll spoke on behalf of the highway employees in attendance stating they did not want to switch at this time. After discussion, Councilman Cummings suggested holding off on switching at this time until a meeting could be held with all employees to clarify the change

**Motion** made by Councilman Thomas Carlson to continue with the current HRA funding it with the same allotment of \$5,000/family and \$2,500/individual.

**Second:** Councilman Al Akin

**Vote:** Supervisor Donald Emhardt – Abstained due to currently receiving insurance benefit  
Councilman Scott Cummings – Aye  
Councilman Al Akin – Aye  
Councilman Thomas Carlson – Aye  
Councilman Kenneth Burnett – Aye

**Carried**

### **Non-Agenda Items:**

The Board discussed the status of the millings pile along Rte. 430. Their deal to get the rest of the pile moved fell through. The highway superintendent state he would check their current supply and pricing to see if the Town could purchase the rest.

The supervisor's report was made available for review by the Board.

**Motion** made by Councilman Thomas Carlson to approve the Supervisor's Report for October.

**Second:** Councilman Scott Cummings

**Vote:** Supervisor Donald Emhardt – Aye  
Councilman Scott Cummings – Aye  
Councilman Thomas Carlson – Aye  
Councilman Al Akin – Aye  
Councilman Kenneth Burnett – Aye

**Carried**

**Motion** made by Councilman Scott Cummings to approve the vouchers as presented to the board for payment. Abstract #011, Voucher # 655- 729

**Abstract # 011**

**Deposit of 10/24/2022 – 11/14/2022**

Code	Fund	Amount
A	GENERAL FUND – TOWNWIDE	63,357.70
B	GENERAL FUND- OUTSIDE VILLAGE	1,938.97
DA	HIGHWAY FUND – TOWNWIDE	38,888.22
DB	HIGHWAY FUND – OUTSIDE VILLAGE	63,994.45
H2	WATER DISTRICT 2- SOUTH EXTENSION	1,000.00
H4-	WATER DISTRICT 2- WELLS/EXTENSION	43,297.03
H5-	SEWER DISTRICT 1 – EXTENSION	2,573.75
SL1-	PT CHAUTAUQUA LIGHT DISTRICT	332.26
SL2-	DEWITTVILLE LIGHTING DISTRICT	339.21
SL4-	BAYBERRY LANDING LIGHTING DIST	21.54
SS1-	CHAUTAUQUA HEIGHTS SEWER DISTRICT	597.33
SW1-	CHAUTAUQUA HEIGHTS WATER DISTRICT	15,272.28
SW3-	CHAUTAUQUA SHORES WATER DISTRICT	51,918.03
<b>Total:</b>		<b>283,530.77</b>

**Second:** Councilman Kenneth Burnett

**Vote:** Supervisor Donald Emhardt – Aye  
Councilman Scott Cummings – Aye  
Councilman Thomas Carlson – Aye  
Councilman Al Akin – Aye  
Councilman Kenneth Burnett – Aye

**Carried**

**Motion** made by Councilman Thomas Carlson to adjourn the regular meeting at 8:00 P.M.

**Second:** Councilman Scott Cummings

**Vote:** Supervisor Donald Emhardt – Aye  
Councilman Scott Cummings – Aye  
Councilman Thomas Carlson – Aye  
Councilman Al Akin – Aye  
Councilman Kenneth Burnett – Aye

**Carried**

---

Rebecca Luba, RMC  
Town Clerk  
Town of Chautauqua