

STATE OF NEW YORK
COUNTY OF CHAUTAUQUA
TOWN OF ELLERY

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OCTOBER 11, 2022

MINUTES OF THE TOWN BOARD MEETING HELD TUESDAY, OCTOBER 11, 2022, AT THE ELLERY TOWN HALL, SUNNYSIDE AVENUE, BEMUS POINT, NY, COMMENCING AT 6:00 PM.

PRESENT: LAWRENCE A. ANDERSON, SUPERVISOR
JOHN C. CRESANTI, SR., COUNCILMAN
MARK R. SCHLEMMER, COUNCILMAN

ABSENT: STEVEN K. HAYES, COUNCILMAN

MINUTES TAKEN BY: REBECCA H. HAINES, TOWN CLERK

OTHERS PRESENT: ANNE GOLLEY, ASSESSOR/ZONING OFFICER
NEIL M. ROBINSON, TOWN ATTORNEY
ROBERT SAMUELSON, CODE ENFORCEMENT OFFICER
GREG HALLBERG, HIGHWAY SUPERINTENDENT
JIM WEHRFRITZ, LAKE CONSULTANT

SUPERVISOR ANDERSON CALLED THE MEETING TO ORDER AT 6:00 PM. THE PLEDGE OF ALLEGIANCE WAS OBSERVED.

ACCEPTANCE – SEPTEMBER 13, 2022 TOWN BOARD MEETING

MOTION BY COUNCILMAN CRESANTI, SECOND BY COUNCILMAN SCHLEMMER: THAT THE TOWN BOARD HAS RECEIVED/ACCEPTED THE MINUTES OF THE SEPTEMBER 13, 2022 BOARD MEETING.

MR. CRESANTI – AYE
MR. HAYES – ABSENT

MR. SCHLEMMER – AYE
MR. ANDERSON – AYE - MOTION CARRIED

SEPTEMBER REPORTS

THE TOWN CLERK'S SEPTEMBER REPORT TOTALED \$5,862.00. THE CHECK TO THE TOWN TOTALED \$3,926.90.

THE TOWN BOARD REVIEWED THE SEPTEMBER REPORT FROM THE ZONING OFFICER, ANNE GOLLEY.

THE FOLLOWING RECOMMENDATIONS FROM THE ZONING BOARD WERE SUBMITTED:

- IN THE SINGLE-FAMILY RESIDENTIAL WARNER BAY DISTRICT (R1-WB) TO CHANGE THE PRIMARY USE MINIMUM FLOOR SPACE FROM 700 SQUARE FEET TO 1,000 SQUARE FEET
- IN THE TWO-FAMILY RESIDENTIAL DISTRICT (R2) TO CHANGE THE PRIMARY USE MINIMUM FLOOR SPACE FROM 700 SQUARE FEET TO 1,000 SQUARE FEET
- IN THE RETAIL BUSINESS DISTRICT (B1) TO CHANGE THE PRIMARY USE MINIMUM FLOOR SPACE FROM 700 SQUARE FEET TO 1,000 SQUARE FEET

- IN THE ELLERY BUSINESS DISTRICT (84) TO CHANGE THE PRIMARY USE MINIMUM FLOOR SPACE FROM 700 SQUARE FEET TO 1,000 SQUARE FEET
- IN THE AGRICULTURAL DISTRICT (A) TO CHANGE THE PRIMARY USE MINIMUM FLOOR SPACE FROM 700 SQUARE FEET TO 1,000 SQUARE FEET

ADD A DEFINITION:

LIVING FENCE – A LIVING FENCE IS A PERMANENT HEDGE TIGHT ENOUGH AND TOUGH ENOUGH TO SERVE ALMOST ANY OF THE FUNCTIONS OF A MANUFACTURED FENCE, BUT IT OFFERS AGRICULTURAL AND BIOLOGICAL SERVICES A MANUFACTURED FENCE CANNOT. THAT THE INTENT IS AT MATURE GROWTH TO GROW TOGETHER TO MAKE A BOUNDARY

SET DATE – PUBLIC HEARING – LOCAL LAW # 2 OF 2022 – ZONING AMENDMENTS

MOTION BY COUNCILMAN SCHLEMMER, SECOND BY COUNCILMAN CRESANTI: THAT A PUBLIC HEARING ON THE SUBMITTED ZONING RECOMMENDATIONS (TOWN ATTORNEY ROBINSON TO PREPARE LOCAL LAW # 2) BE SCHEDULED FOR TUESDAY, NOVEMBER 8, 2022, AT 6:15 PM.

MR. CRESANTI – AYE
MR. HAYES – ABSENT

MR. SCHLEMMER – AYE
MR. ANDERSON – AYE - MOTION CARRIED

THE BOARD ALSO REVIEWED THE SEPTEMBER REPORTS SUBMITTED BY CODE ENFORCEMENT OFFICER, BOB SAMUELSON; ASSESSOR, ANNE GOLLEY; TOWN JUSTICES, LARRY WALLACE AND JOHN FERRARA; AND SUPERVISOR LARRY ANDERSON.

SUPERVISOR ANDERSON NOTED THAT HE HAD RECEIVED A LETTER FROM RACHEL BROWN, GREENHURST. THE REQUEST FROM MS. BROWN THAT THE TOWN INSURANCE PAY FOR THE DAMAGE TO HER CAR WHEN A TREE IN THE RIGHT-OF-WAY FELL ON IT WAS DENIED BY THE TOWN INSURANCE CARRIER. MS. BROWN IS NOW ASKING FOR THE TOWN TO PAY FOR THE DAMAGE EVEN THO THERE WAS NO PRIOR WRITTEN NOTICE OF THE TREE BEING UNHEALTHY/DAMAGED.

THE BOARD AGREED THAT WHILE IT'S UNFORTUNATE THAT THIS HAPPENED, THE TOWN CANNOT PAY MS BROWN FOR THE DAMAGE TO HER CAR.

PUBLIC

1. RICK KRESS OF KRESS RECYCLING AND AUTO – ADDRESSED THE TOWN BOARD ABOUT HIS PROPOSAL TO TAKE OVER TOWNLINE AUTO PARTS FROM BRUCE MACEY. HE STATED HE HAS MANY YEARS OF EXPERIENCE AS HE SUBMITTED HIS WRITTEN PROJECT PROPOSAL. HE IS ASKING THE BOARD FOR APPROVAL BECAUSE THE ORIGINAL JUNKYARD LICENSE ISSUED TO MR. MACEY STATES THAT IT IS NON-TRANSFERABLE. MR. KRESS EXPLAINED TO THE BOARD THAT HE WILL BE DEVELOPING THE PROJECT IN 3 PHASES BUT TO BEGIN WITH HE WILL BE DOING EXACTLY WHAT MR. MACEY IS AUTHORIZED TO DO.

AFTER BRIEF DISCUSSION, A MOTION WAS MADE BY COUNCILMAN CRESANTI, SECOND BY COUNCILMAN SCHLEMMER: THAT A NEW JUNKYARD LICENSE BE ISSUED TO RICK KRESS OF KRESS RECYCLING AND AUTO TO OPERATE HIS BUSINESS BASED ON THE SIMILAR USE AS THE BUSINESS (TOWNLINE AUTO PARTS) IS NOW OPERATING AND SHOULD THE BUSINESS USE(S) EXPAND, MR. KRESS WILL BE OBLIGATED TO COME BACK TO THE TOWN BOARD FOR APPROVAL.

MR. CRESANTI – AYE
MR. HAYES – ABSENT

MR. SCHLEMMER – AYE
MR. ANDERSON – AYE - MOTION CARRIED

6:40 PM – PUBLIC HEARING – DEWITTVILLE FIRE PROTECTION DISTRICT

THE PUBLIC HEARING WAS OPENED AND CLOSED WITH NO ONE SPEAKING ON BEHALF OF THE DEWITTVILLE FIRE PROTECTION DISTRICT BUDGET REQUEST OF \$6,333.00 FOR FISCAL YEAR 2023.

6:41 PM – PUBLIC HEARING - SINCLAIRVILLE FIRE PROTECTION DISTRICT

THE PUBLIC HEARING WAS OPENED. MR. MCKENNA OF SINCLAIRVILLE FIRE DEPARTMENT THANKED THE BOARD FOR THEIR SUPPORT AND SAID THE FIRE DEPARTMENT WOULD BE HAPPY WITH ANY INCREASE. THE HEARING WAS CLOSED.

6:42 PM – PUBLIC HEARING - BEMUS POINT FIRE PROTECTION DISTRICT

RANDY APPERSON SPOKE ON BEHALF OF THE FIRE PROTECTION DURING THE PUBLIC HEARING. HE MADE NOTE OF THE FIRE DEPARTMENTS ACTIVITIES DURING THE YEAR. HE SAID THAT THE ONE TIME PAYMENT OF \$25,000 TOWARD THE PURCHASE OF THE HEAVY RESCUE TRUCK WAS APPRECIATED. DURING THE FISCAL YEAR OF 2021, \$90,292 WAS THE AMOUNT RAISED FROM THE TOWN PORTION OF THE FIRE DISTRICT. THE FIRE DEPARTMENT IS ASKING FOR AN 8% INCREASE TO \$97,000. THE HEARING WAS CLOSED.

BID OPENING – ORIENTAL PARK GARBAGE DISTRICT

TWO BIDS WERE RECEIVED FOR ORIENTAL PARK GARBAGE DISTRICT. THE BID FROM CASELLA WAS FOR 5 YEARS AND INCLUDES WEEKLY ZERO-SORT RECYCLING:

2023 - \$21,481; 2024 - \$22,340; 2025 - \$22,786; 2026 - \$23,242; 2027 - \$23,707.

THE BID FROM MATHEWS ENTERPRISES, INC. WAS BASED ON 1, 3 AND 5 YEARS AND CONTINUES THE CURRENT RECYCLING SCHEDULE.

THE 5 YEAR BIDS WERE – 2023 - \$47,400; 2024 – 49,800; 2025 - \$52,200; 2026 - \$52,800; 2027 - \$53,400.

BOTH BIDS WERE IN ORDER.

MOTION BY COUNCILMAN CRESANTI, SECOND BY COUNCILMAN SCHLEMMER: THAT CASELLA BE AWARDED THE 5 YEAR CONTRACT FOR ORIENTAL PARK GARBAGE DISTRICT AS PER THE BID SUBMITTED.

MR. CRESANTI – AYE
MR. HAYES – ABSENT

MR. SCHLEMMER – AYE
MR. ANDERSON – AYE – MOTION CARRIED

BUDGET TRANSFERS/MODIFICATIONS

MOTION BY COUNCILMAN SCHLEMMER, SECOND BY COUNCILMAN CRESANTI: THAT THE FOLLOWING BUDGET TRANSFERS AND MODIFICATIONS BE APPROVED:

BUDGET TRANSFER:

\$40 FROM A1990.4 – SPECIAL ITEMS – CONTINGENT TO A1220.4 – SUPERVISOR – CONTRACTUAL

BUDGET MODIFICATION:

WE RESOLVE TO INCREASE THE GENERAL FUND TOWN WIDE 2022 EXPENDITURE BUDGET BY \$39,517 DUE TO THE USE OF ARPA FUNDS. THIS WILL INCREASE ACCOUNTS A4039 – ARPA REVENUE AND A9901.9 – ARPA TRANSFER TO OTHER FUNDS. (VOUCHERS 485 & 486)

BUDGET MODIFICATION:

WE RESOLVE TO INCREASE THE HIGHWAY FUND TOWN WIDE 2022 EXPENDITURE BUDGET BY \$39,517 DUE TO THE USE OF ARPA FUNDS. THIS WILL INCREASE ACCOUNTS DA2801 – ARPA TRANSFERS FROM GENERAL FUND AND DA5120.49 – BRIDGES – CONTRACTUAL – ARPA. (VOUCHERS 485 & 46)

BUDGET TRANSFER:

\$57 FROM DB9040.8 – EMPLOYEE BENEFITS – WORKERS COMP TO DB9045.8 – EMPLOYEE BENEFITS – LIFE INSURANCE

MR. CRESANTI – AYE
MR. HAYES – ABSENT

MR. SCHLEMMER – AYE
MR. ANDERSON – AYE – MOTION CARRIED

VOUCHERS

MOTION BY COUNCILMAN CRESANTI: SECOND BY COUNCILMAN SCHLEMMER: THAT VOUCHER #'S 516 THROUGH 568, WARRANT #10, IN THE AMOUNT OF \$149,916.91, BE APPROVED AS AUDITED.

MR. CRESANTI – AYE
MR. HAYES – ABSENT

MR. SCHLEMMER – AYE
MR. ANDERSON – AYE – MOTION CARRIED

HIGHWAY SUPERINTENDENT'S REPORT

HIGHWAY SUPERINTENDENT HALLBERG REPORTED THAT 5 TRUCKS HAVE BEEN INSPECTED, A LOT OF HYDRO SEEDING HAS BEEN DONE, THE COUNTY HAS STRIPED TOWN ROADS AND HE ALSO SHOWED THE BOARD THE NEW TOWN ENTRANCE SIGN.

SET DATE – LOCAL LAW # 3 – SETTING FORTH REGULATIONS FOR SOLAR ENERGY SYSTEMS

MOTION BY COUNCILMAN SCHLEMMER, SECOND BY COUNCILMAN CRESANTI: THAT A PUBLIC HEARING FOR PROPOSED LOCAL LAW # 3 OF 2022, SETTING FORTH REGULATIONS FOR SOLAR ENERGY SYSTEMS, BE SCHEDULED FOR TUESDAY, NOVEMBER 8, 2022, AT 6:30 PM.

MR. CRESANTI – AYE
MR. HAYES – ABSENT

MR. SCHLEMMER – AYE
MR. ANDERSON – AYE – MOTION CARRIED

ATTORNEY'S REPORT

TOWN ATTORNEY ROBINSON REPORTED ON 2 COURT CASES HE HAS RECENTLY HANDLED IN TOWN COURT – MS. KAREN JOHNSON, ROUTE 430, HAS 60 DAYS TO BRING HER PROPERTY LINE FENCE INTO COMPLIANCE WITH THE APPROVED ZONING PERMIT SHE HAD BEEN ISSUED AND JOSHUA LINK, ROUTE 380 MUST MAKE SUBSTANTIAL PROGRESS CLEANING UP THE ROUTE 380 PROPERTY IN 20 DAYS.

LAKE CONSULTANT REPORT

JIM WEHRFRITZ REPORTED: THAT UNDER 1 - TOWN OF ELLERY HERBICIDE -BASED INVASIVE WEED MANAGEMENT ABOUT THE 2023 GRANT APPLICATIONS TO CLWMA FOR HERICIDE TREATMENT OFFSHORE ELLERY HAVE BEEN SUBMITTED AND ABOUT THE 2023 HERBIICIDE TREATMENT PLANNING BASES; HE ALSO REPORTED ON THE PROPOSED 2023 TOWN OF ELLERY CHAUTAUQUA LAKE-RELATED BUDGET AND FINISHED WITH A CHAUTAUQUA LAKE PROTECTION AND REMEDIATION AGENCY (CLPRA) UPDATE.

MR. WEHRFRITZ ALSO MADE NOTE OF THE LETTER HE AND SUPERVISOR ANDERSON HAD DRAFTED AND SENT TO JIM CIRBUS, PRESIDENT OF CHAUTAUQUA LAKE PARTNERSHIP.

(COPIES OF THE ABOVE INFORMATION IS ON FILE IN THE TOWN CLERK'S OFFICE)

MISCELLANEOUS

SUPERVISOR ANDERSON NOTED THAT THE TOWN HAS RECEIVED AN INITIAL PROPOSAL LETTER FROM ROBERT NORDIN, SENIOR ASSOCIATE OF CPL TO DEVELOP CONCEPTUAL BUILDING AND SITE PLANS FOR A NEW TOWN BUILDING. ALSO NOTED WAS THAT THE TOWN IS STILL HOPING TO RECEIVE A PROPOSAL FROM KERI BELOVARAC.

SET DATE – 2023 TENTATIVE BUDGET MEETING/WORKSHOP

MOTION BY COUNCILMAN SCHLEMMER, SECOND BY COUNCILMAN CRESANTI: THAT A MEETING TO DISCUSS AND WORK ON THE 2023 TENTATIVE BUDGET BE SET FOR 4:00 PM, THURSDAY, OCTOBER 20, 2022 AND LAURA NAPOLI OF BAHGAT & LAURITO BAHGAT BE INVITED TO ATTEND.

MR. CRESANTI – AYE
MR. HAYES – ABSENT

MR. SCHLEMMER – AYE
MR. ANDERSON – AYE – MOTION CARRIED

SET DATE – 2023 PRELIMINARY BUDGET PUBLIC HEARING

MOTION BY COUNCILMAN CRESANTI, SECOND BY COUNCILMAN SCHLEMMER: THAT THE PUBLIC HEARING ON THE 2023 PRELIMINARY BUDGET BE SCHEDULED FOR TUESDAY, NOVEMBER 8, 2022, AT 5:30 PM.

MR. CRESANTI – AYE
MR. HAYES – ABSENT

MR. SCHLEMMER – AYE
MR. ANDERSON – AYE – MOTION CARRIED

PUBLIC

ROBERT JOHNSON, ROUTE 430 – NOTED THAT THERE IS SOME REPAIR WORK NEEDED TO THE WESTMAN ROAD BRIDGE OVER ROUTE 86 AND HIGHWAY SUPERINTENDENT HALLBERG SAID IT IS ALREADY ON THE SCHEDULE. THE TOWN HAD DONE SOME REPAIRS LAST YEAR ALSO.


ADJOURNMENT

MOTION BY COUCILMAN CRESANTI, SECOND BY COUNCILMAN SCHLEMMER: THAT THE TOWN BOARD MEETING BE ADJOURNED AT 7:40 PM.

MR. CRESANTI – AYE
MR. HAYES – ABSENT

MR. SCHLEMMER – AYE
MR. ANDERSON – AYE – MOTION CARRIED

SUBMITTED:


REBECCA H. HAINES, RMC/MMC
ELLERY TOWN CLERK

/RHH