

STATE OF NEW YORK
COUNTY OF CHAUTAUQUA
TOWN OF ELLERY

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JUNE 9, 2022

MINUTES OF THE TOWN BOARD MEETING HELD THURSDAY, JUNE 9, 2022, AT THE ELLERY TOWN HALL, SUNNYSIDE AVENUE, BEMUS POINT, NY, COMMENCING AT 7:31 PM.

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

MINUTES TAKEN BY: REBECCA H. HAINES, TOWN CLERK

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

SUPERVISOR ANDERSON CALLED THE MEETING TO ORDER AT 7:31 PM. THE PLEDGE OF ALLEGIANCE WAS OBSERVED

TOWN BOARD MEETING MINUTES – MAY 12, 2022

MOTION BY COUNCILMAN SCHLEMMER, SECOND BY COUNCILMAN CRESANTI: THAT THE BOARD ACKNOWLEDGES THAT THE MINUTES OF THE MAY 12, 2022, TOWN BOARD MEETING WERE PRESENTED.

MR. CRESANTI – AYE
MR. HAYES – AYE

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

MAY REPORTS

TOWN CLERK, REBECCA HAINES, SUBMITTED HER MAY TOWN CLERK REPORT IN THE AMOUNT OF \$3,828.00. THE CHECK TO THE TOWN TOTALED \$3,682.09.

SUPERVISOR ANDERSON ALSO NOTED THAT TOWN CLERK/TAX COLLECTOR, REBECCA HAINES HAS RECEIVED THE CERTIFICATE OF SATISFACTION FROM KIMBERLY A. MELEEN, TAX ENFORCING OFFICER OF CHAUTAUQUA COUNTY, STATING THAT SHE AS THE ELECTED TAX COLLECTOR OF THE TOWN OF ELLERY, DID ON APRIL 21, 2022, MAKE FULL SATISFACTION OF THE TAX WARRANT ISSUED TO THE TOWN OF ELLERY BY THE LEGISLATURE OF THE COUNTY OF CHAUTAUQUA DATED DECEMBER 31, 2021.

THE TOWN BOARD REVIEWED/DISCUSSED THE MAY REPORT FROM THE ZONING OFFICER, ANNE GOLLEY.

THE BOARD ALSO RECEIVED/DISCUSSED THE MAY REPORT SUBMITTED BY CODE ENFORCEMENT OFFICER, BOB SAMUELSON.

THE BOARD ALSO RECEIVED THE MAY REPORTS FROM THE ASSESSOR, TOWN JUSTICES AND TOWN SUPERVISOR.

TOWN ATTORNEY'S REPORT

MR. ROBINSON NOTED THAT HE HAS A CONTRACT BETWEEN TOWN OF ELLERY AND TOWNS OF CHAUTAUQUA AND NORTH HARMONY FOR SHARED ASSESSOR SERVICES. THE FIVE-YEAR CONTRACT BEING PROPOSED IS THE SAME AS THE 2021 CONTRACT.

AFTER BRIEF DISCUSSION, A MOTION WAS MADE BY COUNCILMAN CRESANTI, SECOND BY COUNCILMAN HAYES: THAT THE TOWN SUPERVISOR IS AUTHORIZED TO SIGN A ONE YEAR CONTRACT AS HAS BEEN REVIEWED BY TOWN ATTORNEY ROBINSON.

MR. CRESANTI – AYE
MR. HAYES – AYE

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

7:45 PM – PUBLIC HEARING – LOCAL LAW # 1 – ELIMINATE PLANNING BOARD

THE PUBLIC HEARING WAS OPENED AT 7:46 PM. TOWN ATTORNEY ROBINSON EXPLAINED THAT BECAUSE IT HAS BECOME INCREASINGLY DIFFICULT TO FIND QUALIFIED TOWN RESIDENTS WILLING TO SERVE ON THE TOWN OF ELLERY PLANNING BOARD, THE BOARD BE ELIMINATED AND THE BOARD OF APPEALS PERFORM ALL OF THE FUNCTIONS FORMERLY PERFORMED BY THE PLANNING BOARD.

MR. ROBINSON NOTED THAT THE SHORT ENVIRONMENTAL ASSESSMENT FORM HAS BEEN COMPLETED AND THE BOARD REVIEWED IT.

THE PUBLIC HEARING WAS CLOSED. THERE WAS NO PUBLIC COMMENT.

MOTION BY COUNCILMAN CRESANTI, SECOND BY COUNCILMAN SCHLEMMER: THAT THE TOWN BOARD ACCEPTS THE SHORT ENVIRONMENTAL ASSESSMENT FORM WHICH SHOWS THAT THE PROPOSED ACTION WILL NOT RESULT IN ANY SIGNITICANT ADVERSE ENVIRONMENTAL IMPACTS.

MR. CRESANTI – AYE
MR. HAYES – AYE

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

MOTION BY COUNCILMAN SCHLEMMER, SECOND BY COUNCILMAN HAYES: THAT THE TOWN BOARD ADOPT LOCAL LAW # 1 OF 2022, A LOCAL LAW ELIMINATING THE TOWN OF ELLERY PLANNING BOARD.

MR. CRESANTI – AYE
MR. HAYES – AYE

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

LAKE CONSULTING AGREEMENT

TOWN ATTORNEY ROBINSON NOTED THAT HE HAS REVIEWED THE LAKE CONSULTING AGREEMENT BETWEEN JIM WEHRFRITZ, DBA ERIE-NIAGARA CONSULTING, LLC., AND THE TOWN OF ELLERY AND HAS FOUND IT TO BE IN ORDER. THE AGREEMENT IS IN EFFECT FROM MAY 1 THROUGH DECEMBER 31, 2022.

MOTION BY COUNCILMAN HAYES, SECOND BY COUNCILMAN SCHLEMMER: THAT ON BEHALF OF THE TOWN, SUPERVISOR ANDERSON IS AUTHORIZED TO SIGN THE CONSULTING AGREEMENT WITH ERIE-NIAGARA CONSULTING, LLC.

MR. CRESANTI – AYE
MR. HAYES – AYE

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

PROPOSED JOINT DRIVEWAY AGREEMENT

TOWN ATTORNEY ROBINSON SAID HE IS ALMOST FINISHED WITH THE PROPOSED JOINT DRIVEWAY AGREEMENT FOR THE TOWN AND TIMOTHY KARNES, 27 SUNNYSIDE, LLC. HE HAS TWO ADDITIONS – PLACEMENT OF APPROPRIATE PARKING LINES AND ADDING THAT THE TOWN WILL BE ALLOWED TO WIDEN THE INGRESS/EGRESS BLACKTOP ACCESS 3-5 FEET.

MOTION BY COUNCILMAN CRESANTI, SECOND BY COUNCILMAN HAYES: THAT THE TOWN ATTORNEY MAKE THE NECESSARY AMENDMENTS TO THE DRIVEWAY AGREEMENT AND PREPARE THE PAPERWORK FOR SIGNATURES.

MR. CRESANTI – AYE
MR. HAYES – AYE

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

BOARD OF APPEALS MEMBERS

THE BOARD WILL NOW CONSIST OF 7 MEMBERS AND 3 ALTERNATES. THE BOARD MEMBERS ARE JOHN CRESANTI, JR., KERRY CRIST, JENNA HEAD, LARRY SCALISE, RICK SHICK, GEORGE SPANOS AND JIM STEBER. THE ALTERNATES WILL BE JERMY CRIST, ANDREW FINSON AND JOE MEASER.

MOTION BY COUNCILMAN SCHLEMMER, SECOND BY COUNCILMAN CRESANTI: THAT ALL OF THE BOARD MEMBERS LISTED ABOVE, CONTINUE TO SERVE OUT THE TERMS THEY ARE PRESENTLY SERVING.

MR. CRESANTI – AYE
MR. HAYES – AYE

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

PUBLIC

DAN LAUSTER, 3679 CRESTVIEW DRIVE – ADDRESSED THE BOARD CONCERNING A DRAINAGE ISSUE. THE DRAIN LINE CROSSING HIS PROPERTY HAS RUSTED/COLLAPSED. MR. LAUSTER ASKED IF THE TOWN HAS AN EASEMENT FOR THE DRAINAGE LINE. HIGHWAY SUPERINTENDENT HALLBERG SAID HE DOES NOT KNOW OF ANY EASEMENT ON MR. LAUSTER'S PROPERTY AND SUGGESTED THAT CHAUTAUQUA COUNTY SOIL & WATER BE CONTACTED FOR A HYDROLIC STUDY OR CONSULT WITH AN ENGINEER. MR. HALLBERG SAID THE TOWN WILL BE UPSIZING THE PIPE THE TOWN IS RESPONSIBLE FOR AND WHEN THAT'S IN THE WORKS HE WILL LET MR. LAUSTER KNOW SO THAT HE CAN PURCHASE THE PROPER SIZE PIPE HE WILL NEED.

CAROL SKILLMAN, ROUTE 430, - ASKED FOR AN UPDATE ON THE LUCARIELLO, SANDWALL AND OLD TRAILER COURT PROPERTIES ACROSS FROM HER PROPERTY. CODE ENFORCEMENT OFFICER SAMUELSON SAID HE IS CURRENTLY WORKING WITH THE ESTATE OF THE LUCARIELLO PROPERTY AND HOPES TO HAVE THAT ISSUE RESOLVED SOON. THE OTHER PROPERTIES ARE ALSO BEING REVIEWED AND HE HOPES SOME ACTION WILL BE TAKEN SOON.

BUDGET TRANSFERS/MODIFICATIONS

MOTION BY COUNCILMAN SCHLEMMER, SECOND BY COUNCILMAN HAYES: THAT THE FOLLOWING BUDGET MODIFICATION BE APPROVED:

WE RESOLVE TO INCREASE THE HIGHWAY FUND TOWN WIDE 2022 EXPENDITURE BUDGET BY \$114,050 WHICH REPRESENTS MONIES RECEIVED FROM THE SALE OF EQUIPMENT. THIS WILL INCREASE ACCOUNTS DA 2665 – SALES OF EQUIPMENT AND DA5130.2 – MACHINERY – EQUIPMENT.

WE RESOLVE TO INCREASE THE HIGHWAY FUND TOWN WIDE 2022 EXPENDITURE BUDGET BY \$164,072. THIS WILL DECREASE APPROPRIATED FUND BALANCE AND INCREASE DA 5130.2 – MACHINERY – EQUIPMENT.

MR. CRESANTI – AYE
MR. HAYES – AYE

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

VOUCHERS

AFTER A BRIEF DISCUSSION ABOUT EMPLOYEE REIMBURSEMENT FOR CELL PHONE USE, A MOTION WAS MADE BY COUNCILMAN CRESANTI, SECOND BY COUNCILMAN SCHLEMMER: THAT VOUCHER #'S 262 THROUGH 314, WARRANT #6, IN THE AMOUNT OF \$71,582.34, BE PAID AS AUDITED.

MR. CRESANTI – AYE
MR. HAYES – AYE

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

LEGISLATOR'S REPORT

COUNTY LEGISLATOR CHAGNON REPORTED THAT THE LEGISLATURE HAS ADOPTED A LOCAL LAW AMENDING THE CHAUTAUQUA COUNTY SELF-INSURANCE PLAN FOR WORKERS' COMPENSATION TO BASE THE PARTICIPANTS' PREMIUMS ON PAYROLL AND CLAIMS EXPERIENCE, RATHER THAN ASSESSED PROPERTY VALUATION AND CLAIMS EXPERIENCE. THE 2023 LEVY WILL INCLUDE THE FOLLOWING CHANGES: THE TOWN OF ELLERY WILL SEE A 76% REDUCTION OF \$46,873; AUTHORIZED CALLING A PUBLIC HEARING AT THE JUNE COUNTY LEGISLATURE MEETING UPON A PROPOSAL TO EXTEND THE SOUTH CHAUTAUQUA LAKE SEWER DISTRICT FROM THE HAMLET OF STOW TO THE SOUTH BOUNDS OF THE NORTH CHAUTAUQUA LAKE SEWER DISTRICT TO COMPLETE PUBLIC SEWERS ON THE WEST SIDE OF CHAUTAUQUA LAKE. THE PROJECT WILL BE CONTINGENT UPON RECEIVING GRANTS AND NO-INTEREST FINANCING SUFFICIENT TO MEET THE STATE COMPTROLLERS'S AFFORDABILITY GUIDELINES; APPROVED AN AGREEMENT WITH THE CELORON FIRE DISTRICT WHEREIN CHAUTAUQUA COUNTY EMS WILL SUPPLY ADVANCED LIFE SUPPORT SERVICES ON CELORON AMBULANCE RUNS AS NEEDED AND BILL FOR THE ADVANCED LIFE SUPPORT AND AMBULANCE SERVICES; ACCEPTED NYS GRANT FUNDING FOR A CHAUTAUQUA COUNTY CONSOLIDATED CODE ENFORCEMENT STUDY. THE 50% LOCAL SHARE MATCH IS ALREADY INCLUDED IN THE 2022 COUNTY BUDGET.

LAKE MANAGEMENT CONSULTANT

MR. WEHRFRITZ REPORTED:

1. Audubon held a screening of a film on invasive species and a panel discussion including CLA, Cornell, CWC, Chautauqua Conewango Consortium, the DEC, and WNY Prism on June 3. The first notice received on this was in the Post-Journal that morning.
2. CLPRA meeting to be held Thursday, June 16 at 3:30 pm in the Town of Chautauqua Board Room (the old high school). We expect to hear a preliminary report from the CLPRA consultant's work on a new taxation scheme to finance lake maintenance. The meeting is open to the public.
3. The 2022 Chautauqua Lake Water Quality Conference, its third year, after CLP Rallies ceased, will be held at the Institution on June 18. The Chautauqua Lake Water Quality Research Panel, an entity of which I am unaware, will present. The selection of speakers/participants is expected to be unbalanced as it was when I was last involved in 2020.
4. An article, Research Kicks Off on the Lake, written for the Post-Journal by Jay Young of the Alliance was published in the Post-Journal on June 7. It describes the variety of data collection projects ongoing on the lake. Unfortunately, data collection is what everyone likes to do, has done for years with no improvement in lake weed or algae conditions. It

is not controversial, easy, and mostly with a lack of published results, conclusions, or follow-on action plans.

5. Town of Ellery and Village of Bemus Point Aquathol-K treatment of Curly Leaf Pondweed was conducted on May 24. 42 of 69 acres applied for offshore Ellery and all 44 acres applied for offshore Bemus Point, 75% overall, were permitted and treated. As expected, initial day after water sampling and testing showed no Aquathol-K at Institution and Chautauqua Lake Estate water intakes and significant residuals at the other five in-lake and four downstream locations. Results of follow-on sampling and testing at intakes on May 29 and other locations on May 31 are pending. Test results below 50 ppb Aquathol-K are necessary to remove the remaining domestic and drinking water use restrictions and the warning signs posted at public lake access points.
6. Town of Ellery and Village of Bemus Point ProCellaCor treatment of Eurasian Water Milfoil is scheduled to be conducted next Monday and Tuesday, June 13 and 14. conducted on May 24. Ellery and Bemus Point proposed treatment of 163 and 75 acres, respectively, a total of 238 acres in 15 areas. Treatment is being permitted as requested in four areas, permitted with water depth restrictions in 4 areas, and not permitted in 7 areas, for a total permitted acreage of 116 acres, 50% overall, offshore the Town and Village. The permit and maps showing the treatment areas will be posted on the Town and Village websites and available in the offices.
7. The Town has budgeted \$40k and the Village has budgeted \$10k for herbicide treatments in 2022. This is likely to be sufficient for only 1/3 of 2022 treatment costs. The remainder will be funded by local foundations through the Alliance and by the Chautauqua Lake Partnership. Thanks to the Partnership for their efforts securing this funding.
8. We are encouraged that the DEC is now allowing Successive Year Treatment of Curly Leaf Pondweed. As the Town stressed to DEC in early 2021, three-year successive treatment is necessary for the Town to manage Pondweed. We will see what happens in 2023, the third successive treatment year.

HIGHWAY SUPERINTENDENT'S REPORT

HIGHWAY SUPERINTENDENT HALLBERG REPORTED THAT HIS DEPARTMENT IS BUSY WITH NORMAL ACTIVITIES FOR THIS TIME OF YEAR – PREPARING CEMETERIES, ROAD SIDE MOWING, INSTALLING PIPES, DITCHING, ETC. HE ASKED THE TOWN BOARD TO CONSIDER THREE NEW (REPLACEMENT) SIGNS FOR THE ENTRANCES TO THE TOWN. RYAN CRANDALL WILL MAKE THE SIGNS. THE SIGNS WILL BE CLEAR COATED TO PRESERVE THEM.

MOTION BY COUNCILMAN CRESANTI, SECOND BY COUNCILMAN HAYES: THAT THE TOWN ORDER THE THREE NEW SIGNS (YELLOW GREEN COLOR SELECTED) FROM RYAN CRANDALL.

MR. CRESANTI – AYE
MR. HAYES – AYE

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

MR. HALLBERG ALSO MENTIONED THAT HE IS WORKING ON AN ESTIMATE FOR REPLACING/UPDATING ALL PIPES ALONG GREENHURST AVENUE RIGHT-OF-WAY – FROM ROUTE 430 TO CHAUTAUQUA LAKE.

THE LITTLE LEAGUE HAD ASKED TO PUT UP A BANNER ON THE TOWN PARK FENCE ANNOUNCING THE FUND RAISING (CAN COLLECTION) DRIVE. IT WAS AGREED THAT NO BANNERS ARE TO BE PLACED ON THE FENCE BUT A BANNER COULD BE HUNG FROM THE ANNOUNCERS' BOOTH AS LONG AS NO HOLES ARE DRILLED INTO THE CEMENT BLOCK.

MISCELLANEOUS

IT WAS DECIDED THAT COUNCILMAN HAYES AND TOWN CLERK HAINES WILL WORK TOGETHER ON THE POLICIES AND EMPLOYEE HANDBOOK.

COUNCILMAN HAYES SAID HE WANTS TO REAFFIRM THAT CODE ENFORCEMENT OFFICER SAMUELSON WILL BE SENDING VIOLATION NOTICES (UNDER THE PROPERTY MAINTENANCE SECTION OF THE TOWN ZONING LAW) TO OWNERS OF THE PROPERTIES PREVIOUSLY MENTIONED BY THE PUBLIC – AT THIS POINT MS. SKILLMAN ALSO MENTIONED THE CHAPMAN PROPERTY ON THE CORNER OF LEWIS AND MAPLE SPRINGS-ELLERY ROAD THAT APPEARS TO BE IN DIRECT VIOLATION OF THE TOWN ZONING CODE.

PURCHASE OF COMPUTER – TOWN SUPERVISOR

SUPERVISOR ANDERSON SAID HE WANTS TO PURCHASE A LAPTOP TO USE WHEN HE CAN'T BE IN THE OFFICE. HE HAS A QUOTE FROM SOUTHERN TIER GRAPHICS.

MOTION BY COUNCILMAN SCHLEMMER, SECOND BY COUNCILMAN CRESANTI: THAT SUPERVISOR ANDERSON IS AUTHORIZED TO PURCHASE A LAPTOP AT A COST NOT TO EXCEED \$1,900.00.

MR. CRESANTI – AYE
MR. HAYES – AYE

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

TOWN BOARD MEETING – NEW DAY AND TIME

AFTER SOME DISCUSSION, A MOTION WAS MADE BY COUNCILMAN HAYES, SECONDED BY COUNCILMAN CRESANTI: THAT GOING FORWARD THE TOWN BOARD MEETINGS WILL BE HELD EVERY SECOND TUESDAY OF THE MONTH AT 6:00 PM.

MR. CRESANTI – AYE
MR. HAYES – AYE

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

INTERVIEWS – NEW TOWN BOARD MEMBER

MOTION BY COUNCILMAN SCHLEMMER, SECOND BY COUNCILMAN HAYES: THAT THE TOWN BOARD CONDUCT INTERVIEWS FOR THE OPEN POSITION ON THE TOWN BOARD, TUESDAY, JUNE 14TH STARTING AT 7:00 PM.

MR. CRESANTI – AYE
MR. HAYES – AYE

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

EXECUTIVE SESSION

MOTION BY COUNCILMAN CRESANTI, SECOND BY COUNCILMAN SCHLEMMER: THAT THE BOARD GO INTO EXECUTIVE SESSION AT 9:25 PM TO DISCUSS THE MEDICAL HISTORY OF A PARTICULAR PERSON.

MR. CRESANTI – AYE
MR. HAYES – AYE

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

REGULAR SESSION

MOTION BY COUNCILMAN SCHLEMMER, SECOND BY COUNCILMAN HAYES: THAT THE REGULAR MEETING RECONVENE AT 9:50 PM.

MR. CRESANTI – AYE
MR. HAYES – AYE

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

MOTION BY COUNCILMAN HAYES, SECOND BY COUNCILMAN SCHLEMMER: THAT TOWN CLERK HAINES IS AUTHORIZED TO APPOINT/HIRE A SECOND DEPUTY AT THE SALARY OF \$36,000.00.

MR. CRESANTI – AYE
MR. HAYES – AYE

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

MOTION BY COUNCILMAN SCHLEMMER, SECOND BY COUNCILMAN HAYES: THAT TOWN CLERK HAINES IS AUTHORIZED TO EXTEND HER HEALTH CARE BENEFITS THROUGH THE END OF THE YEAR WHICH WILL REQUIRE A TRANSFER OF FUNDS DUE TO THE FACT THAT ONLY A HALF YEAR HAD BEEN BUDGETED.

MR. CRESANTI – AYE
MR. HAYES – AYE

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

ADJOURNMENT

MOTION BY COUNCILMAN SCHLEMMER, SECOND BY COUNCILMAN HAYES: THAT THE TOWN BOARD MEETING ADJOURN AT 9:55 PM.

MR. CRESANTI – AYE
MR. HAYES – AYE

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

SUBMITTED:

A handwritten signature in cursive script, reading "Rebecca H. Haines".

REBECCA H. HAINES, RMC/MMC
ELLERY TOWN CLERK

/RHH