

STATE OF NEW YORK )  
COUNTY OF CHAUTAUQUA )  
TOWN OF ELLERY )

SS

MAY 9, 2023

MINUTES OF THE TOWN BOARD MEETING HELD TUESDAY, MAY 9, 2023 AT THE TOWN HALL, SUNNYSIDE AVENUE. BEMUS POINT, NY, COMMENCING AT 6:00 PM.

PRESENT: LAWRENCE A. ANDERSON, SUPERVISOR  
JEREMY D. CRIST, COUNCILMEMBER  
JOHN C. CRESANTI, SR., COUNCILMEMBER  
MARK R. SCHLEMMER, COUNCILMEMBER

MINUTES TAKEN BY: REBECCA H. HAINES, TOWN CLERK

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

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

**APPOINTMENT – DAVID BOUGHTON - COUNCILMEMBER**

MOTION BY COUNCILMEMBER CRESANTI, SECOND BY COUNCILMEMBER SCHLEMMER: THAT DAVID BOUGHTON BE APPOINTED TO FILL THE UNEXPIRED TERM (12/31/2023) OF FORMER COUNCILMEMBER HAYES.

MR. CRIST – AYE

MR. CRESANTI – AYE

MR. SCHLEMMER – AYE

MR. ANDERSON – AYE – MOTION CARRIED

COUNCILMEMBER BOUGHTON SIGNED HIS OATH OF OFFICE.

**MARCH 14, 2023 AND APRIL 11, 2023, MINUTES PRESENTED**

THE TOWN BOARD MEMBERS HAD ALL RECEIVED THE TOWN BOARD MEETING MINUTES FROM THE MARCH 14, AND APRIL 11, 2023 TOWN BOARD MEETINGS.

**APRIL REPORTS**

TOWN CLERK, REBECCA HAINES SUBMITTED HER APRIL REPORT IN THE AMOUNT OF \$4,144.00. THE CHECK TO THE TOWN TOTALED \$4,023.26. THE COUNTY/TOWN TAX WARRANT BALANCING REPORT WAS ALSO SUBMITTED.

SUPERVISOR ANDERSON ALSO NOTED THAT THE FOLLOWING REPORTS HAD BEEN RECEIVED: ZONING OFFICER, CODE ENFORCEMENT OFFICER, ASSESSOR. TOWN JUSTICES, DOG CONTROL OFFICER, AND HIS TOWN SUPERVISOR'S FINANCIAL REPORT.

THE ZONING/PLANNING BOARD WILL BE ASKED FOR AN INTERPRETATION OF “WINERY VS. MICRO BREWERY” BEING ALLOWED ON THE SITE OF THE FORMER CHATTERBOX RESTAURANT.

ASSESSOR, ANNE GOLLEY NOTED THAT GRIEVANCE DAY 2023 WILL BE MAY 23, 2023.

SUPERVISOR ANDERSON NOTED THAT HE HAS BEEN CONTACTED BY JIM STEFFEN OF THE KOKOMO BAND ABOUT PLAYING TWO CONCERTS IN THE TOWN PARK: THURSDAY, JULY 20<sup>TH</sup>, 6:30 – 8:30 PM AND SUNDAY AFTERNOON, AUGUST 20<sup>TH</sup>. TOWN CLERK HAINES SAID SHE WOULD CHECK TO MAKE SURE THE PAVILIONS AREN'T RENTED ON AUGUST 20<sup>TH</sup>. THE COST OF EACH CONCERT IS \$350.00.

**ACCEPT – 2022 JUSTICE COURT AUDIT**

MOTION BY COUNCILMEMBER CRESANTI, SECOND BY COUNCILMEMBER CRIST: THAT THE TOWN BOARD ACCEPT THE 2022 AUDIT OF THE TOWN JUSTICE RECORDS AS SUBMITTED/AUDITED BY SUPERVISOR ANDERSON AND COUNCILMEMBER CRESANTI.

MR. BOUGHTON – AYE  
MR. CRIST – AYE  
MR. CRESANTI - AYE

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

**PUBLIC**

1. JEFF MOLNAR, MAYOR OF BEMUS POINT – NOTED THAT THE BEMUS POINT FIRE DEPARTMENT WILL BE UTILIZING THE SERVICES OF A PRIVATE BILLING COMPANY FOR EMS CALLS IN THE FUTURE.

**VOUCHERS**

MOTION BY COUNCILMEMBER SCHLEMMER, SECOND BY COUNCILMEMBER CRIST: THAT VOUCHER #'S 179 THROUGH 229 , WARRANT # 5, IN THE AMOUNT OF \$62,342.53, BE PAID AS AUDITED, EXCEPTING 2 CHARGES ON THE M & T CREDIT CARD BILL – ONE FOR AN ANNUAL FEE AND ONE FOR THE \$50.00 EASY PASS CHARGE.

MR. BOUGHTON – AYE  
MR. CRIST – AYE  
MR. CRESANTI - AYE

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

**LEGISLATOR'S REPORT**

COUNTY LEGISLATOR CHAGNON REPORTED:

- THE COUNTY ADOPTED LOCAL LAWS GRANTING 10% EXEMPTION FROM COUNTY REAL PROPERTY TAX TO ACTIVE VOLUNTEER FIREFIGHTERS AND AMBULANCE WORKERS AND

- THOSE WHO ACCRUE 20 YEARS OF ACTIVE SERVICE, AS WELL AS UN-REMARIED SPOUSES OF A DECEASED VOLUNTEER WHO WAS RECEIVING THE EXEMPTION. THE COUNTY IS HOPEFUL THIS HELPS WITH RECRUITMENT AND RETENTION.
- APPROVED \$50,000 OF ARPA FUNDS FOR AN AIR SERVICE DEVELOPMENT PROJECT AT THE JAMESTOWN AIRPORT, TO INVESTIGATE THE POSSIBILITY OF RESTORING COMMERCIAL AIRLINE SERVICE.
- APPROVED \$1,004,300 OF ARPA FUNDS TO PURCHASE LAKE MAINTENANCE EQUIPMENT.
- APPROVED \$1 MILLION OF ARPA FUNDS FOR SUPPORT OF THE JEFFERSON PROJECT AT CHAUTAUQUA LAKE.
- THE CGR CONSULTANT TEAM FOR THE COUNTY-WIDE CODE ENFORCEMENT STUDY IS CLOSE TO FINISHING CODE ENFORCEMENT OFFICER INTERVIEWS. THEY HAVE COMPLETED THREE ROUNDS OF GROUP MEETINGS WITH MUNICIPAL LEADERS, WITH REPRESENTATIVES OF 17 MUNICIPALITIES IN ATTENDANCE, AND HAVE LAUNCHED THE MUNICIPAL LEADERS' SURVEY.
- PLANNING IS UNDERWAY FOR THE TOTAL ECLIPSE OF THE SUN THAT WILL OCCUR THROUGHOUT CHAUTAUQUA COUNTY ON APRIL 8<sup>TH</sup>, 2024. THIS EVENT HAS THE POTENTIAL TO OVERLOAD THE HOSPITALITY INDUSTRY AND LOCAL INFRASTRUCTURE AND IS CONSIDERED A ONCE IN A LIFETIME EVENT. WE COULD SEE AS MANY AS 1 MILLION VISITORS FOR THE EVENT. SOME PROJECTED IMPACTS MAY BE:
  - VERY CONGESTED ROADWAYS...IN OTHER AREAS ANY AND ALL ROADS BECAME CONGESTED, AND MANY WERE ROADBLOCKED
  - CONGESTED PARKING AREAS THAT ARE UTILIZED FOR THE EVENT
  - HEALTH AND SANITARY CONCERN WITH THE LARGE GATHERING CROWDS
  - INCREASED CRIMINAL EVENTS AND OPPORTUNITIES
  - INCREASED INTERSTATE 90/86 VEHICLE TRAFFIC
  - A LARGE INCREASE IN TOURISM DOLLARS AND HOTEL REVENUE
  - ISSUES WITH ILLEGAL SALES OF "ECLIPSE" PROTECTIVE GEAR AND MEMENTOES
  - AFTER EVENT TRAFFIC
  - AFTER EVENT CLEANUP

THERE WAS CONSIDERABLE BACK AND FORTH DISCUSSION BETWEEN COUNTY LEGISLATOR CHAGNON AND JIM WEHRFRITZ REGARDING THE JEFFERSON PROJECT ALSO BEING CONDUCTED AT CHAUTAUQUA LAKE.

#### **HIGHWAY SUPERINTENDENT'S REPORT**

HIGHWAY SUPERINTENDENT HALLBERG REPORTED ON THE HIGHWAY DEPARTMENT'S RECENT ACTIVITIES INCLUDING BUT NOT LIMITED TO OPENING THE TOWN PARK, PREPARING THE BEMUS POINT CEMETERY AND REDBIRD CEMETERY FOR MEMORIAL DAY, ATTENDING A UDIG NY SAFETY TRAINING, STARTING TO PREP GREENHURST AVENUE FOR THE UPCOMING DRAINAGE PROJECT.

MR. HALLBERG NOTED THAT THE BIDS (AUTHORIZED AT THE MARCH MEETING) FOR THE THREE NEW TRUCKS MUST BE RECEIVED BY 10:00 AM, MAY 22<sup>ND</sup> AND WILL BE OPENED AT THAT TIME. HE WILL HAVE RESULTS/RECOMMENDATIONS AT THE JUNE MEETING.

MR. HALLBERG THEN NOTED THAT HE HAS BIDS FOR THE ANNUAL PURCHASE OF A NEW MOWER FOR THE CEMETERY. HE SUGGESTED THAT THE OLD MOWER BE SOLD AT AUCTION INSTEAD OF BEING USED FOR TRADE-IN.

AFTER REVIEWING THE QUOTES, A MOTION WAS MADE BY COUNCILMEMBER SCHLEMMER, SECOND BY COUNCILMEMBER CRIST: THAT HIGHWAY SUPERINTENDENT HALLBERG IS AUTHORIZED TO PURCHASE THE ZERO TURN MOWER, Z200, FOR \$5,967.81, FROM SOUTHERN TIER SALES, INC., WITH THE OLD MOWER BEING SOLD AT AUCTION AND THE MONEY RETURNED TO THE CEMETERY ACCOUNT.

MR. BOUGHTON – AYE  
MR. CRIST – AYE  
MR. CRESANTI - AYE

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

**ATTORNEY'S REPORT**

MR. ROBINSON NOTED THAT THE CONSULTING AGREEMENT WITH ERIE-NIAGARA CONSULTING, LLC (JIM WEHRFRITZ) EXPIRED 12/31/2022. HE HAS PREPARED AN EXTENSION OF THE CONSULTING AGREEMENT AND ADVISED THE TOWN BOARD TO REVIEW IT. THE EXTENSION AGREEMENT WOULD EXPIRE MAY 8, 2023.

MOTION BY COUNCILMEMBER CRESANTI, SECOND BY COUNCILMAN SCHLEMMER: THAT THE TOWN BOARD APPROVE THE EXTENSION OF THE CONSULTING AGREEMENT WITH ERIE-NIAGARA CONSULTING, LLC, BETWEEN JANUARY 1, 2023 AND MAY 8, 2023.

MR. BOUGHTON – AYE  
MR. CRIST – AYE  
MR. CRESANTI - AYE

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

THERE WAS BRIEF DISCUSSION BETWEEN THE TOWN BOARD AND JIM WEHRFRITZ. THE TOWN BOARD ACKNOWLEDGED THE MANY CONTRIBUTIONS MADE BY MR. WEHRFRITZ ON BEHALF OF THE TOWN.

MOTION BY COUNCILMEMBER CRIST, SECOND BY COUNCILMEMBER CRESANTI: THAT THE TOWN OF ELLERY WILL NOT RENEW THE LAKE MANAGEMENT CONSULTING AGREEMENT WITH ERIE-NIAGARA CONSULTING, LLC.

MR. BOUGHTON – AYE  
MR. CRIST – AYE  
MR. CRESANTI – AYE

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

**DISCUSSION ON MEADOW DRIVE EASEMENTS**

ATTORNEY ROBINSON NOTED THAT ALL THE NECESSARY EASEMENTS FOR THE DITCHING PROJECT ON MEADOW DRIVE HAVE BEEN SIGNED WITH THE EXCEPTION OF HOMEOWNER, SEAN EGAN. MR. EGAN HAS EXPRESSED CONCERN THAT THE PROJECT WILL CAUSE FLOODING ON HIS PROPERTY AND THEREFORE HIS PROPERTY WILL BE UNUSABLE. THERE WAS DISCUSSION AND IT WAS AGREED THAT HIGHWAY SUPERINTENDENT HALLBERG AND HIGHWAY EMPLOYEE PETE SAMUELSON WILL WALK THE PROPERTY/DITCH AREAS WITH MR. EGAN AND DISCUSS THE MATTER SO THAT AN AGREEMENT CAN BE REACHED.

**LOCAL LAW #3 OF 2023– NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE (THE UNIFORM CODE) AND THE STATE ENERGY CONSERVATION CONSTRUCTION CODE (THE ENERGY CODE)**

ATTORNEY ROBINSON SAID THAT A PUBLIC HEARING NEEDS TO BE SET SO THE BOARD CAN CONSIDER ADOPTING THE UPDATED UNIFORM CODE AND UPDATED ENERGY CODE. THE BOARD HAD BEEN GIVEN COPIES OF THE PROPOSED LOCAL LAW IN MARCH. THIS VERSION HAS A FEW CHANGES.

MOTION BY COUNCILMEMBER SCHLEMMER, SECOND BY COUNCILMEMBER CRIST: THAT THE PUBLIC HEARING FOR PROPOSED LOCAL LAW #3 OF 2023 BE SET FOR 6:45 PM, TUESDAY, JUNE 13, 2023.

MR. BOUGHTON – AYE  
MR. CRIST – AYE  
MR. CRESANTI - AYE

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

**MISCELLANEOUS**

TOWN CLERK HAINES WILL FORWARD THE NEWLY REVISED HANDBOOK TO THE BOARD MEMBERS FOR THEIR REVIEW/AMENDMENTS.

**EXECUTIVE SESSION**

MOTION BY COUNCILMEMBER SCHLEMMER, SECONDED BY COUNCILMEMBER CRESANTI: THAT THE BOARD GO INTO EXECUTIVE SESSION AT 7:41 PM, TO DISCUSS PURCHASE OF REAL PROPERTY.

MR. BOUGHTON – AYE  
MR. CRIST – AYE  
MR. CRESANTI - AYE

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

REGULAR SESSION AND ADJOURNMENT

MOTION BY COUNCILMEMBER SCHLEMMER, SECONDED BY COUNCILMEMBER CRIST: THAT THE BOARD RETURN TO REGULAR SESSION 7:47 PM AND THE MEETING BE ADJOURNED.

MR. BOUGHTON – AYE  
MR. CRIST – AYE  
MR. CRESANTI – AYE

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

SUBMITTED BY:

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

REBECCA H. HAINES, RMC/MMC  
TOWN CLERK

/RHH