

Mayville, NY

Regular Meeting

March 14, 2022

Present: Supervisor Donald Emhardt, Councilmen Kenneth Burnett, Al Akin, and Scott Cummings. Town Clerk, Rebecca Luba, Deputy Clerk, Jess Emhardt, Zoning Clerk, Elizabeth Steinbach, Code Enforcement Officer, Ken Shearer, Highway Superintendent, Dan Thorsell, Justice, Tim Hull and Town Attorney, Joel Seachrist.

Others Present:, Gregory Bacon(Post-Journal), Mike Manning(Ramboll), Drew Reilly(Wendel), Peter McAuliffe(Omni Navitas), Marty Proctor(Legislator), Mike Barnes, Karen Engstrom, Mark Smith, Debbie and Mark Perry.

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 to the board for February 14, 2022

Second: Councilman Al Akin

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

Public Comments:

Departmental Reports:

Town Clerk's monthly report for February was submitted and filed. Collections totaled \$5,843.85 and disbursed as follows: Supervisor-General Fund: \$1,214.57, B Fund: \$75.00, Sewer User Fees- SS1 Fund: \$2,584.20, Sale of Water- SW3 Fund: \$324.10, NYS DEC license sales: \$375.82, NYS Animal Population Control program: \$102.00. NYS DOH Marriage License: \$22.50. Record searches completed: 27

Second notices for unpaid property taxes were mailed March 3, 2022. Current Tax collections total \$12,122,000.97 with \$1,138,187.39 still outstanding.

First quarter water and sewer bills will be mailed end of March. Notices are being printed for the Spring Clean-up which will take place May 2-6, 2022.

Assessor's report was submitted and on file in the Clerk's office. The office is continuing work on the valuation for new construction and demolition projects. All properties will be valued for the May release of the new assessments. Legal notice was published on March 1, 2022 for the assessment inventory as required by the NY State Real Property Tax Law. Grievance Day is scheduled for May 25, 2022, by appointment.

Zoning Clerk, Elizabeth Steinbach reported that the Code/Zoning Office issued 13 building permits with project values of \$308,498.00 and issued 4 Certificates of Completion with project values of \$466,632.21.

Highway reported on activities for the month of February which included plowing, putting up weight limit signs, rebuilding dump box on the 2006 Sterling, finished push blade for excavator and dug weep holes due to flooding on February 22nd.

After posting roads a request to bond Haight Road was made by a logger currently working on a job. The estimated cost to repair this section of road (6/10th mile) would be \$150,000.00 but with the current inflation, could be as high as \$250,000.00.

Motion made by Councilman, Scott Cummings authorizing the Highway Superintendent and Town Supervisor to execute an agreement with the logging company to bond Haight Rd. in the amount of \$250,000.00

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
Councilman Thomas Carlson- Aye

Carried

Committee Reports:

Chautauqua Institution Police:

Councilman, Cummings reported that the policing committee met with the Town's attorney and drafted an agreement that was presented to Chautauqua Institution and their attorney. Once an agreement is established, the committee will meet with the County Sheriff's department, Town and Institution to finalize before sending it to the State Department of Justice for approval.

Highway Department Improvements:

Councilman, Thomas Carlson reported on the committee meeting with Barton & Loguidice to discuss upgrades to the existing Highway building and addition of a new building for a water department. Material costs are high right now. but will keep within the budget to obtain what is needed at this time.

Water District 2-Water Source:

Supervisor Emhardt stated that the water source project for Water District 2 is moving forward. A public hearing will be scheduled later in the agenda to establish boundaries extending the current district to include the new water well location. Mike Manning, engineer from Ramboll, stated they are still waiting to hear on the WIIA grant. The EFC announced a round of awards last week and was going to announce another round this week.

Public Comment:

The Supervisor opened the floor for public comment on non-agenda items. No comment was made

Agenda Items:

Highway- New Truck

The board reviewed a state bid quote from Ed Shults Ford of Jamestown for a new 2022 Chevy Silverado LTD that included a trade-in allowance of \$30,000.00.

Motion made by Councilman, Al Akin authorizing the purchase not to exceed \$11,580.00 after the trade-in allowance.

Second: Councilman Thomas Carlson

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

Carried

Agreement- Water Dist. 2 Pump

A renewal agreement was submitted by MJ Mechanical for the HVAC preventative maintenance program for Water District 2 water pumps.

Motion made by Councilman Thomas Carlson authorizing the Town Supervisor to execute the renewal agreement for an annual charge of \$300.00.

Second: Councilman Scott Cummings

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

Carried

Appointments- Board of Assessment Review

Mark Slegg's term ended 9/30/2021 and the Assessor has asked to have him reappointed.

Motion made by Councilman Al Akin to approve the appointment of Marks Sleggs for an additional 5-year term.

Second: Councilman Kenneth Burnett

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

Carried

Public Hearing- Local Law 2 of 2022- Highway Administration

Local Law 2 of 2022 was presented to the Town Board on Feb. 14, 2022. Notice for public hearing was published in the Jamestown Post-Journal on March 4, 2022, and posted on the Clerk's sign board and website.

Motion made by Councilman Scott Cummings to open the public hearing at 7:10PM.

Second: Councilman Kenneth Burnett

Vote: Supervisor Donald Emhardt – Aye
Councilman Scott Cummings – Aye
Councilman Al Akin – Aye

Councilman Kenneth Burnett – Aye
Councilman Thomas Carlson- Aye

Carried

Supervisor Emhardt reviewed the local law establishing Highway Administration allowing the Highway Superintendent to issue work permits for contracted work within the Town's rights-of-way. The floor was opened for comment in which there was none.

Motion made by Councilman Thomas Carlson to close the public hearing at 7:11PM.

Second: Councilman Kenneth Burnett

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

Carried

**Town of Chautauqua
Local Law No. 2 for the year 2022
providing terms for the administration of town highways**

Pursuant to Section 10 of the Municipal Home Rule Law, be it enacted by the Town of Board of the Town of Chautauqua, County of Chautauqua and State of New York, as follows:

SECTION 1.

A new Chapter 126 for Highway Administration is hereby added to the Town of Chautauqua Code, which shall provide as follows:

Chapter 260

HIGHWAY ADMINISTRATION

§ 126-1 Highway work permit.
§ 126-2 Required documentation.
§ 126-3 Fee.

§ 126-1. Highway work permit.

The Superintendent of Highways may, with the consent of the Town Board, upon the submission of a highway work permit application by any resident or taxpayer or corporation, grant permission for work proposed to be done within the Town's right-of-way, including the laying and maintaining of pipe for any purpose.

§ 126-2. Required documentation.

The Superintendent of Highways and/or the Town Board may require the applicant to submit any plans, design drawings, engineer's report or other documentation deemed necessary for their review in order to issue a right-of-way work permit.

§ 126-3. Fee.

The fee for a highway work permit shall be in an amount as set forth from time to time by the Town Board.

SECTION 2.

If any part or provision of this Local Law shall be declared invalid, void, unconstitutional, unenforceable by a court of law, all unaffected provisions hereof shall survive such declaration and this Local Law shall remain in full force and effect as if the invalidated portion had not been enacted.

SECTION 3.

This Local Law shall take effect immediately upon filing with the Secretary of State of the State of New York.

Motion made by Councilman Scott Cummings to adopt Local Law 2 of 2022 as presented.

Second: Councilman Thomas Carlson

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

Carried

Public Hearing – Special Use Permit Hartfield-Stockton Rd. Solar Project

A public hearing was opened on June 14, 2021, at 7:15p.m. for a special use permit to operate a 5mw large-scale solar energy system on a parcel located at 6306 Hartfield-Stockton Rd. The hearing was left open allowing the public to submit comments and findings while the Town obtained an engineer to review the application and plans submitted.

The Board discussed the updated information submitted by Omni Navitas as recommended by the Andrew Reilly, engineer from Wendell. This information included an updated stamped site plan with setbacks conforming to Town Code, landscaping plan, and MassDEP fact sheet showing no evidence of PFAs being present in the solar panels.

Councilman Carlson asked if the decommissioning plan was the same one the County had. Town attorney, Joel Seachrist, stated that the issuance of the building permit would be contingent upon a final plan being submitted. This plan and bonding will be reviewed and updated with the Town every 5 years.

Councilman Cummings asked who would oversee the construction and operation of the facility and whether it would fall on the Town's Code Enforcement Department. Mr. Seachrist stated the Town would have an option to hire a project engineer for this.

The floor was opened for comment. Councilman Carlson asked if they could utilize the County's decommissioning plan. Attorney Seachrist stated that the County's template is more of a guideline. The decommissioning plan that was submitted somewhat follows though there are some questions. If the Board was to approve the permit, a final decommissioning plan would have to be submitted prior to the building permit being issued. This would require bonding and with changing costs, you would want to make sure the bond reflects the current costs when the bond is issued. The proposed permit does require a review and update of the bond on a regular basis. Andrew Reilly of Wendel, recommended this to be done every 3-5 years to properly represent what would need to be done if the Town were to utilize it. Peter McAuliffe, of Omni Navitas, confirmed this would be renewed every 5 years.

No further comment was made by the Board or Public.

Motion made by Councilman Scott Cummings to close the public hearing at 7:16p.m.

Second: Councilman Al Akin

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

Carried

SEQRA- Negative Declaration

WHEREAS, the Town of Chautauqua received special use permit and site plan applications from Omni Navitas Holdings, LLC to construct and operate a 5 MW Solar Energy system at 6036 Hartfield-Stockton Road in the Town of Chautauqua, Chautauqua County, New York; and

WHEREAS, the Chautauqua Town Board has reviewed these applications and projects at several meetings and held the required public hearing and received comments from the public and received input from the Town Zoning Board of Appeals, Chautauqua County (including completing the required Section 239 referral), other agencies and the Town Consultant; and

WHEREAS, the Chautauqua Town Board in accordance with the New York State Environmental Quality Review Act (SEQRA), has conducted a coordinated SEQR process, reviewed part 1 of the FEAF and completed parts 2 and 3 of the FEAF, and has done a thorough review of the project and its potential impacts; and

WHEREAS, the Chautauqua Town Board, in accordance with SEQRA has determined that the proposed issuance of a special use permit and the construction and operation of a 5 MW solar energy systems at this location will not adversely affect the natural resources of the State and/or the health, safety and welfare of the public and is consistent with social and economic considerations.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board through the coordinated SEQR process establishes the Town Board as SEQR Lead Agency, and hereby determines that the proposed issuance of special use permits and the construction and operation of a 5 MW solar energy projects at this location is not anticipated to result in any significant adverse environmental impact and that a Negative Declaration is hereby issued and that the Town of Chautauqua Supervisor is authorized to sign the EAF, which will act as the Negative Declaration.

Motion made by Councilman Thomas Carlson to approve Negative Declaration as presented.

Second: Councilman Al Akin

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

Carried

Special Use Permit

Action of the Board: To consider the application of Omni Navitas Holdings to construct and operate a 5.0 MW large-scale solar energy system on a parcel located at 6036 Hartfield-Stockton Road,

WHEREAS, Omni Navitas Holdings, LLC (Chautauqua), LLC (hereinafter, the “Applicant”) has requested the issuance of a Special Use Permit authorizing it to construct and operate a 5 MW large-scale solar energy system – i.e., a solar farm – on a parcel at 6036 Hartfield-Stockton Road: and

WHEREAS, the proposed site plan was the subject of a public hearing held by the Zoning Board of Appeals on April 20, 2021, after publication of legal notice, at which time all persons having an interest in the application were heard, and the ZBA adopted a resolution and report recommending that the Town Board approve the application subject to certain terms and conditions, and

WHEREAS, the Chautauqua County Planning Department by letter dated December 9, 2021, in response to a zoning referral submitted pursuant to Section 239-m of the General Municipal Law, advised that the proposed action was of local option, and

WHEREAS, the issue of compliance with the State Environmental Quality Review Act has been addressed, and a Negative Declaration has been issued after examination of the record and a public hearing, and

WHEREAS, the Town Board has considered all the facts and papers before it, and has heard those wishing to be heard at a public hearing that was opened on June 14, 2021, and closed on March 14, 2022, finds justification to approve the application for an overlay district and special use permit subject to the qualifications hereinafter set out,

NOW, THEREFORE, BE IT RESOLVED, that the Town Board makes the following findings of fact:

1. The application materials include all the information this Board requires to take final action on the Special Use Permit; and
2. The proposed project meets the development standards set out in the Section 145-53 of the Town’s Zoning Code, which regulates Solar Energy Systems; and be it further

RESOLVED, that the application to construct and operate a Large-scale Solar Energy System be and hereby is authorized and approved, and this Special Use Permit shall be issued, subject to the conditions and requirements hereinafter set out:

1. The Applicant shall undertake the use in accordance with the plans, maps, and application submitted to the Town, except as hereinafter modified, and agrees to be bound by the terms of the application and the conditions of this permit.
2. The following terms and conditions shall apply to the permit:
 - a. This Special Use Permit only entitles the Applicant to one 5 MW solar energy system to be located on the site at 6036 Hartfield-Stockton Road. Any change in the nameplate (i.e. 5.0 megawatt) will necessitate a return to the Town Board for review of a new Special Use Permit application.
 - b. Site disturbance, including but not limited to, grading, soil removal, excavation, soil compaction, and tree removal in connection with the installation of this solar energy system shall be as shown on the approved plans. Violation of these disturbance limits will require returning to the Town Board to get a mitigation plan approved (replanting of disturbed areas to the satisfaction of the Town).

- c. Following construction of this solar energy system, all disturbed areas where soil has been exposed shall be reseeded with grass and/or planted with low-level vegetation capable of preventing soil erosion and airborne dust as shown in the approved erosion and sediment control plan.
- d. This Solar special use permit can be assignable or transferable to future users of that system on the approved parcel so long as they are in full compliance with this article and all conditions of this SUP, and the Town Clerk is notified of the property transfer at least 30 days prior thereto.
- e. Any post-construction changes or alterations to this solar energy system shall be done by amendment to the solar special use permit only and subject to the requirements of the law.
- f. After completion of this solar energy system, the applicant shall provide a post-construction certification from a professional engineer registered in New York State that the project complies with applicable codes and industry practices and has been constructed and is operating according to the design plans. The applicant shall further provide certification from the utility that the facility has been inspected and connected.
- g. If this solar energy system has not been in active and continuous service for a period of one year, it shall be removed at the owner's or operator's expense. Decommissioning shall include removal of all energy facilities, structures and equipment including fencing and any subsurface wires and footings from the parcel (in accordance with the approved decommissioning plan).
- h. Full restoration of the parcel is required unless restoration is unnecessary because the parcel is to be put into active agricultural use (decommissioned in accordance with NYSDAM standards) or approved for other development in accordance with the Town of Chautauqua Zoning Code within that twelve-month period.
- i. All safety hazards created by the installation and operation of the solar energy system shall be eliminated and the site restored to its pre-existing condition within six months of the removal of this large-scale solar energy system.
- j. A surety bond or its equivalent shall be required to be kept in escrow by the Town of Chautauqua to ensure satisfaction of the above. The Town Board has established the amount of such surety, which may be in the form of escrowed funds, bonds or otherwise, but it is the intention of this provision to ensure that the Town has sufficient funds available to remove the installations and restore landscaping consistent herewith, if the applicant fails to comply with its decommissioning obligations.
- k. All forms of surety (amount of surety to be set by the Town Board) will be approved by the Town Attorney (recommendation provided by the Town Board for the first year of \$200,000) and will require updates on regular basis as determined by the Town Attorney.
- l. Prior to facility start-up and during construction, a Town Engineering consultant shall be provided access to the facility to inspect the drainage and stormwater provisions (SWPPP reports to be provided by applicant's engineer).
- m. Landscaping shall be installed/planted as shown on the approved plans and properly maintained. Any landscaping that does not survive over the first ten (10) years shall be replaced and/or replanted annually.
- n. The Applicant shall install a fence surrounding the project as shown on the approved plans. Fencing must not prevent the maintenance of drainageways. Keys for access to the site must be

provided to the Fire Department. Fencing shall incorporate features to allow the movement of wildlife.

o. Prior to start-up, appropriate emergency personnel shall be provided appropriate training and be given a tour of the facility before final sign-off, at the Applicant's expense.

p. Prior to start-up, the operators/owners shall appear before the Town Board to discuss the operation of the facility and the meeting of the conditions of the Special Use Permit. It is the operators/owner's responsibility to ensure that they are placed on that meeting's agenda.

q. Immediately preceding start-up, the Town will complete a final inspection of the facility.

r. Emergency plans shall be reviewed and potentially updated on an annual basis with emergency service providers.

s. The roads and access ways into and within the site shall be properly maintained, including plowing for potential emergency personnel access.

t. The Applicant, after one year of operation, shall return to the Town Board for review of any Special Use Permit condition violations or for review of a new application for a Special Use Permit attributable to any change in use and/or change in nameplate.

u. The Applicant shall return to the Town Board/Zoning Board for the final site plan approval and must receive all other required regulatory approvals prior to a building permit being issued.

v. The Solar Energy system must be removed in accordance with the Decommissioning Plan if the Special Use Permit is revoked or the system has been deemed inoperable and/or abandoned as defined in the Section 145-53.1 of the Town of Chautauqua Solar Energy systems regulations.

w. The applicant must provide the appropriate Insurances, and these must be maintained throughout the life of the project as dictated in the Town Law. Proof of Insurance must be provided on a yearly basis.

x. The permit shall be constructed in accordance with the following attachments.

EXHIBIT A - Application with Supporting Documents

EXHIBIT B - Zoning and Planning Action County Referral Form and Referral Response Form

EXHIBIT C - Full Environmental Assessment Form and other environmental documentation

EXHIBIT D - Owners Authorization letter

EXHIBIT E - Equipment specifications

EXHIBIT F - Operation and Maintenance Plan

EXHIBIT G - Safety Plan

EXHIBIT H - Decommissioning Plan

EXHIBIT I - Coordinated Electric System Interconnect Review

3. If the owner of the solar project or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan.
4. The terms, conditions, and requirements of this permit bind and obligate the Applicant, its successors, and assigns. This permit shall not be assigned or transferred, in whole or in part, without the prior written notice to the Town at least thirty (30) days in advance of the transfer.
5. Any failure or omission on the part of the Applicant to carry out any condition or requirement herein or in 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 them to the penalties therein. Continued violations after written notice may result in revocation of this Special Use Permit.
6. this special use permit shall become effective after the applicant approves each and every provision hereof and agree to be bound by all of the terms herein contained in consideration of the granting of this special use permit.

Motion made by Councilman Kenneth Burnett to grant the Special Use Permit.

Second: Councilman Thomas Carlson

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

Carried

Resolution – Public Hearing for Water District 2 Extension

**In The Matter of The Extension of Water District No. 2 in the Town of Chautauqua,
Chautauqua County, New York**

WHEREAS, the Town Board of the Town of Chautauqua, Chautauqua County, New York, has duly caused to be prepared a map showing the boundaries of a proposed extension of Water District No. 2 in said Town (hereinafter, “Water District No. 2” or simply, the “District”), a general plan to drill new wells for and make some improvements to the said District, and a report of the proposed method of financing and operation thereof; and

WHEREAS, said map, plan and report, including an estimate of the cost, were prepared by Ramboll, competent engineers duly licensed by the State of New York, and have been filed in the office of the Town Clerk of said Town, where the same are available during regular office hours for examination by any persons interested in the subject matter thereof, including estimate of cost; and

WHEREAS, the boundaries of the proposed extension of said District shall be as described in Exhibit A attached hereto and hereby incorporated herein; and

WHEREAS, the improvements proposed for said District consist of the installation of two (2) groundwater wells in the hamlet of Dewittville; construction of a support building of approximately 900 square feet to house pressure filters, water softening equipment, chlorination equipment, exterior clear wells, and electrical/instrumentation systems; approximately 14,200 linear feet of 8-inch diameter pipeline; tee connections and valving for future extensions; and fire hydrants, including original furnishings, equipment, machinery, apparatus, valves, hydrants, appurtenances, and incidental improvements and expenses in connection therewith, all as more fully described in the map, plan and report hereinbefore described; and

WHEREAS, the maximum estimated cost of said improvements is \$3,953,000; and

WHEREAS, the proposed method to be employed for financing such improvement is the issuance of serial bonds for the balance, and

WHEREAS, the Town intends to apply to other sources of low interest loan and grant funding that would reduce the local costs and the cost estimates set out below, including from the Drinking Water State Revolving Fund administered by the New York State Environmental Facilities Corporation; and

WHEREAS, all users within the existing and extended District will pay for the capital costs of the new water supply and transmission lines running therefrom, for the operation and maintenance costs of the District, and for the capital improvements fund, but only users within the extension area will also pay for the capital costs of the southward extension of the waterlines within the extension area; and

WHEREAS, assuming the Town receives \$2,000,000 grant funding for the project, the estimated cost to the typical property in the first year in which operation, maintenance, debt service and other charges and expenses are to be paid is: (1) to customers within the existing District (174 equivalent dwelling units) \$872.64; and (2) to customers within the extension area who are benefitted but not connected (122 half-EDU), \$163.34.

WHEREAS, as the customer base expands within the extended District to approximately 350 total EDU, the estimated annual cost to the typical property is expected to be \$573.64; and

WHEREAS, at full buildout, with a total of 519 EDU across the entire District, the estimated annual cost to the typical property is estimated to be \$417.66; and

WHEREAS, a detailed explanation of the manner by which were computed said estimated costs of fees and first-year costs to the typical property has been filed in the office of the Town Clerk at 2 Academy Street in Mayville, New York where the same are available during regular office hours for examination by any person interested in the subject manner thereof; and

WHEREAS, said capital project for said District and the extension thereof have been determined to be an Unlisted Action pursuant to the regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act, the implementation of which as proposed, the Town Board has determined will not result in any significant environmental effects and a Short Environmental Assessment Form is available on file in the office of the Town Clerk where it may be inspected during normal office hours; and

WHEREAS, it is now desired to call a public hearing upon the question of the extension of said District and the improvements proposed therefor, all pursuant to Section 209-d of the Town Law;

Exhibit A

Boundaries of Proposed Extension to
Water District No. 2 in the
Town of Chautauqua, Chautauqua County, New York

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Chautauqua, County of Chautauqua and State of New York being part of the Holland Land Company's Survey bounded and described as follows;

BEGINNING at the centerline intersection between East Lake Road, (N.Y.S. Highway No. 430) and the centerline of Leet Avenue;

THENCE North 25°-03'-09" West along the centerline of said East Lake Road, a distance of 2,250± feet;

THENCE North 64°-50'-32" East, a distance of 500± feet;

THENCE South 25°-03'-09" East, parallel with said East Lake Road and distant 500± feet northeasterly therefrom, a distance of 2105± feet;

THENCE South 57°-30'-34" East, a distance of 1,246± feet;

THENCE South 88°-49'-52" East, parallel with the centerline of Springbrook Road, (County Highway No. 52) and distant 500± feet northerly therefrom, a distance of 7,324± feet to the easterly line of Great Lot 12. Township 3, Range 13 of the said Holland Land Company's Survey, also being the division line between the easterly boundary of the Town of Chautauqua and the westerly boundary of the Town of Ellery;

THENCE South 01°-00'-49" West, along said east line of Great Lot 12 and further said Town boundary, further continuing southerly along the easterly line of Great Lot 11 in said Township and Range, a distance of 4,487± feet to the southeast corner of said Great Lot 11 and the centerline of Thum Road;

THENCE North 89°-08'-33" West along the southerly line of Great Lot 11 and the centerline of Thum Road and further continuing westerly along the southerly line of Great Lot 14 in said Township and Range, a distance of 3,632± feet to the edge of water along Chautauqua Lake;

THENCE continuing in a general north-northwest direction along the edge of water of Chautauqua Lake, a distance of 12,833± feet to the approximate intersection between said edge of water and the northerly line of lands now or formerly deeded to Forty 4 Shore, LLC recorded in the Chautauqua County Clerk's office in Liber 2020 of deeds at page 3662, also being the established boundary limit of the Town of Chautauqua Water District Number 2 Service Area located to the north;

THENCE South 89°-24'-06" East along said northerly line of Liber 2020, page 3662 and said Water District Number 2 boundary limit, a distance of 136.4± feet to an angle point in the north line of said Liber 2020, Page 3662;

THENCE South 53°-53'-49" East along the northerly line of said Liber 2020, Page 3662 and said Water District Number 2 boundary limit, a distance of 106.4± feet to an angle point in the north line of said Liber 2020, Page 3662;

THENCE North 86°-18'-18" East along the northerly line of said Liber 2020, Page 3662 and said Water District Number 2 southerly boundary limit, a distance of 62.5± feet to the northeast corner of said Liber 2020, Page 3662, also being located on the easterly line of lands now or formerly deeded to Snider-Chautauqua, LLC, recorded in the Chautauqua County Clerk's office in Liber 2518 of deeds at page 989, further being the established boundary limit of the Town of Chautauqua Water District Number 2 Service Area located to the west;

THENCE North 03°-41'-42" West along the easterly line of said Liber 2518, Page 989, said line further being the established boundary limit of the Town of Chautauqua Water District Number 2 Service Area located to the west, a distance of 300± feet to the northwest corner of said Liber 2518, Page 989:

THENCE North 41°-18'-18" East along the most northerly line of said Liber 2518, Page 989, said line further being the established boundary limit of the Town of Chautauqua Water District Number 2 Service Area located to the north, a distance of 115± to an angle point in the most north line of Liber 2518, page 989:

THENCE North 86°-18'-19" East along the most northerly line of said Liber 2518, Page 989, said line further being the established boundary limit of the Town of Chautauqua Water District Number 2 Service Area located to the north, a distance 120± feet to the northeast corner of said Liber 2518, Page 989:

THENCE South 24°-35'-12" East along the most easterly line of said Liber 2518, Page 989, said line further being the established boundary limit of the Town of Chautauqua Water District Number 2 Service Area located to the east, a distance of 144.4± feet to an angle point in the easterly line of said Liber 2518, page 989:

THENCE South 77°-17'-47" West along a northerly line of said Liber 2518, Page 989, said line further being the established boundary limit of the Town of Chautauqua Water District Number 2 Service Area located to the east:

THENCE South 21°-27'-00" East along an easterly line of said Liber 2518, Page 989, said line further being the established boundary limit of the Town of Chautauqua Water District Number 2 Service Area located to the east, a distance of 438± feet to the southeast corner of said Liber 2518, Page 989;

THENCE South 87°-53'-10" West along the southerly line of said Liber 2518, Page 989, said line further being the established boundary limit of the Town of Chautauqua Water District Number 2 Service Area located to the east, a distance 17± feet to the approximate centerline of Lookout Avenue;

THENCE South 18°-05'-49" East along the said approximate centerline of Lookout Avenue, said line further being the established boundary limit of the Town of Chautauqua Water District Number 2 Service Area located to the east, a distance of 674± feet to the northerly line of lands now or formerly deeded to Francis Clark, recorded in the Chautauqua County Clerk's office in Liber 2399 of deeds at page 899 extended westerly to said centerline, further being the established boundary limit of the Town of Chautauqua Water District Number 2 Service Area located to the east;

THENCE North 75°-14'-21" East along the north line of said Liber 2399, Page 899, said line further being the established boundary limit of the Town of Chautauqua Water District Number 2 Service Area located to the north, a distance of 125± feet to the northeast corner of said Liber 2399, Page 899;

THENCE South 20°-26'-07" East along the easterly line of said Liber 2399, Page 899, said line further being the established boundary limit of the Town of Chautauqua Water District Number 2 Service Area located to the east, a distance of 38± feet to an angle point in the easterly line of said Liber 2399, Page 899;

THENCE South 37°-55'-09" East along the easterly line of said Liber 2399, Page 899, said line further being the established boundary limit of the Town of Chautauqua Water District Number 2 Service Area located to the east, a distance of 133± feet to the southeast corner of said Liber 2399, Page 899;

THENCE North 77°-17'-09" East, a distance of 72± feet to the approximate centerline of said Leet Avenue;

THENCE in a general North and Northeasterly direction along the approximate centerline of said Leet Avenue, a distance of 924± feet to the POINT or PLACE of BEGINNING, containing 750 Acres of land, more or less.

NOW, THEREFORE, BE IT ORDERED, by the Town Board of the Town of Chautauqua, Chautauqua County, New York, as follows:

Section 1. A meeting of the Town Board of the Town of Chautauqua, Chautauqua County, New York, shall be held at the Chautauqua Community Building, 2 Academy Street, Mayville, New York, in said Town, on the 11th day of April, 2022, at 7:15 o'clock P.M., Prevailing Time, for the purpose of holding a public hearing to consider the extension and increase and improvement of the Water District in said Town as described in the preambles hereof, and the improvements proposed therefor, and to consider the map, plan and report filed in relation thereto, and to hear all persons interested in the subject matter thereof concerning the same, and for such other action on the part of said Town Board as may be required by law or shall be proper in the premises.

Section 2. It is hereby determined that all expenses of the Water District No. 2, including all Districts heretofore or hereafter established, shall be a charge against the entire area of said Water District No. 2, as extended, including said District hereinbefore described, except that the area currently served by water within said District shall be treated as a separate benefit district within the large district.

Section 3. The Town Clerk is hereby authorized and directed to cause a copy of this order to be published once in the *Jamestown Post-Journal*, the official newspaper of said Town, the first publication thereof to be not less than ten nor more than twenty days before the day set herein for the hearing as aforesaid, and said Town Clerk shall also cause a copy thereof to be posted on the sign-board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law not less than ten nor more than twenty days before the day set for the hearing as aforesaid.

Motion made by Councilman Scott Cummings to adopt the resolution setting a public hearing for April 11, 2022 at 7:15p.m. and orders a copy to be sent to all residences within the proposed extension in addition to the required legal.

Second: Councilman Kenneth Burnett

Vote: Supervisor Donald Emhardt – Aye
Councilman Scott Cummings – Aye
Councilman Dave Ward – Aye
Councilman Kenneth Burnett – Aye
Councilman Thomas Carlson- Aye

Carried

Agreement- Community Benefit Agreement

A benefit agreement was presented to the Board by Omni Dewittville Solar LLC offering financial support while managing any potential impacts to the community or environment in the form of an annual payment of \$2,750.00 per megawatt per year, with twenty-five percent (25%) escalators applied in years 11 and 21 starting January 1, 2023. This annual payment will constitute revenues for public purposes that will seek to improve the quality of life of the residents of the Town of Chautauqua by including, but not limited to, reducing their tax burden, helping the Town qualify for grants, improving parks and recreational resources, and related to similar objectives.

Motion made by Councilman Thomas Carlson to authorize the Town Supervisor to accept and execute the agreement as presented.

Second: Councilman Scott Cummings

Vote: Supervisor Donald Emhardt – Aye

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

Carried

Comprehensive Plan

Barton and Loguidice gave a presentation at the Village of Mayville's board meeting and have offered to speak at a Town meeting. The Board asked the Town's attorney about the benefits of having a plan. Mr. Seachrist stated that any zoning changes would have to support the comprehensive plan in place and would not only help the Board in decision making but would also back-up their decisions. Mr. Reilly suggested looking in to financing options available to implement a plan. Joint plans between towns and villages are encouraged in which more grants would be available to fund the planning phase.

The Annual Financial Report for 2021 was completed and filed with the State Comptroller's office. Legal was submitted to the Post-Journal on March 02, 2022 and a copy is available in the Town Clerk's office for public inspection during regular business hours

Budget Transfers

Motion made by Councilman Scott Cummings to approve the following budget transfers for 2021 as presented by the Town Supervisor and bookkeeper.

Town of Chautauqua
Budget Transfers
December 31, 2021

<u>TO</u>		<u>AMOUNT</u>	<u>FROM</u>		<u>AMOUNT</u>
TRANSFERS TO BALANCE - A FUND					
A1010.4	Town Board - contract	50.00	A1010.1	Town Board - pers svcs	565.34
A1220.1	Supervisor - Pers svcs	0.06	A1110.1	Municipal Court - pers svcs	5,024.42
A1220.4	Supervisor - contractual	5,623.75	A1110.2	Municipal Court - equip	2,613.00
A1330.1	Tax Collection - pers svcs	0.07	A1110.4	Municipal Court - contract	8,168.69
A1355.1	Assessment - pers svcs	21,935.43	A1220.2	Supervisor - equip	500.00
A1420.4	Law - contractual	410.00	A1330.1	Tax Collection - pers svcs	
A1440.4	Engineer - contractual	18,753.80	A1330.4	Tax Collection - contract	1,000.00
A1460.1	Records Mgmt officer - pers	0.07	A1355.2	Assessment - equipment	1,212.54
A1460.4	Records Mgmt officer - cont	5,703.15	A1355.4	Assessment - contract	10,708.03
A1620.2	Buildings - equipment	48,641.24	A1410.1	Town Clerk - pers svcs	1.09
A1620.45	Data processing	11,141.52	A1410.2	Town Clerk - equip	500.00
A1620.47	Printing & mailing	4,141.41	A1410.4	Town Clerk - contract	1,287.34
A1920.4	Municipal Association Dues	430.00	A1460.2	Record Mgmt Officer - equip	1,000.00
A5112.4	Permanent Improv - Contract	19,291.40	A1620.1	Buildings - pers svcs	10,157.86
A6410.4	Publicity - contractual	1,300.00	A1620.41	Utilities	1,156.57
A7110.1	Chaut Lake - pers services	14,291.75	A1620.46	Buildings - contract	25,899.73
A7110.4	Chautauqua Lake - contract	28,174.98	A1620.46	Central storage	1,378.75
A9020.8	Medicare	789.19	A1910.4	Unallocated insurance	283.32
A9030.8	Social Security	4,029.69	A1950.4	Taxes paid on municipal bldg	903.33
A9060.8	Hospital & Med ins	7,080.92	A3310.4	Traffic control - contractual	238.27
			A3510.1	Control of dogs - pers svcs	3,807.43
			A3510.2	Control of dogs - equip	1,500.00
			A3510.4	Control of dogs - contract	1,755.00
			A5010.1	Hwy Admin - pers svcs	88.01
			A5010.2	Hwy Admin - equip	1,000.00
			A5010.4	Hwy Admin - contract	400.00
			A5182.4	Street Lighting - contract	245.42
			A7410.4	Library - contract	3,000.00
			A7989.4	Tourism - contractual	1,300.00
			A8430.4	Natural Gas contractual	347.48
			A9010.8	State retirement	12,871.20
			A9040.8	Worker's comp	5,484.28
			A9730.7	BAN interest	7,583.16
			A9901.900	Interfund transfers	10,000.00
			A9905.7	Capital projects - buildings	25,000.00
			A3005	Mortgage tax	44,808.17
		<u>191,788.43</u>			<u>191,788.43</u>

TRANSFERS TO BALANCE - B FUND

B3620.1	Safety inspection - pers svcs	19,242.61	B1990.4	Contingent acct	
B8010.1	Zoning - pers svcs	88.56	B3620.2	Safety inspection - equip	1,000.00
B8160.4	Refuse & garbage - contract	237.16	B3620.4	Safety inspection - contract	3,208.60
B9010.8	State retirement	467.79	B3650.4	Demolition of unsafe bldgs - cont	5,000.00
B9020.8	Medicare	339.18	B7310.4	Youth programs - contract	15,075.00
B9030.8	Social security	1,509.05	B8010.2	Zoning - equipment	500.00
B9060.8	Hospital & medical ins	4,000.00	B8010.4	Zoning - contractual	154.56
			B1120	Nonproperty tax distrib by Co	946.19
		<u>25,884.35</u>			<u>25,884.35</u>

TRANSFERS TO BALANCE - DA FUND

DA5112.2	Permanent impr. - equip	111,297.86	DA5120.1	Bridges - pers svcs	79.60
DA5130.4	Machinery - contract	40,459.92	DA5120.4	Bridges - contract	24,000.00
DA5142.4	Snow removal - contract	14,516.26	DA5130.1	Machinery - pers svcs	4,276.48
DA9010.8	State retirement	6,201.70	DA5130.2	Machinery - equipment	143,963.24
DA9020.8	Medicare	205.44	DA9060.8	Hospital & medical insurance	1,481.44
DA9030.8	Social security	1,119.58			
		<u>173,800.76</u>			<u>173,800.76</u>

TRANSFERS TO BALANCE - "DB FUND"

DB5110.1	General repairs - pers svcs	11,198.22	DB5110.4	General repairs - contract	18,990.20
DB5110.41	General repairs - asphalt	78,530.23	DB5110.42	General repairs - bituminous matl	174,847.09
DB5110.43	General repairs - stone, slag	108,480.16	DB5110.44	General repairs - drain tile	4,093.50
DB5112.4	Permanent impr - contract	257,392.01	DB5110.45	General repairs - fuel oil	18,853.79
DB9010.8	State retirement	6,201.70	DB9020.8	Medicare	434.58
DB9030.8	Social security	1,176.38			
DB9060.8	Hospital & medical insurance	13,518.56			
		<u>476,497.26</u>	DB1120	Nonproperty tax distrib by Co	154,508.53
			DB3501	Consolidated Highway Aid	104,769.57
					<u>476,497.26</u>

TRANSFERS TO BALANCE - SL4 FUND

SL4-5182.4	Street Lighting - Contractual	<u>33.47</u>	SL4 - 599	Unexpended Fund Balance	<u>33.47</u>
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TRANSFERS TO BALANCE - SS1 FUND

SS1-8120.2	Sanitary sewers - equip	79,266.89	SS1-2122	Sewer Charges	79,266.89
		<u>79,266.89</u>			<u>79,266.89</u>

TRANSFERS TO BALANCE - SW1 FUND

SW1-8320.4	Source of supply - contr	7,934.90	SW1-8320.4	Source of supply - contract	2,604.90
			SW1-9730.71	Tower BAN interest	5,062.27
			SW1-599	Unexpended fund balance	267.73
		<u>7,934.90</u>			<u>7,934.90</u>

Second: Councilman Kenneth Burnett

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

Carried

Motion made by Councilman Kenneth Burnett approve the vouchers as presented to the board for payment. Abstract #003, Voucher # 101-174

ABSTRACT # 003
DEPOSIT OF 02/01/2022 - 03/31/2022

Code	Fund	Amount
Book: A B DA DB H1 H2 H3 H4 H5 K SF2 SF4 SL1		
A	GENERAL FUND - TOWNWIDE	36,612.22
B	GENERAL FUND - OUTSIDE VILLAGE	27.72
DA	HIGHWAY FUND - TOWNWIDE	55,934.88
DB	HIGHWAY FUND - OUTSIDE VILLAGE	11,165.89
H3-	SEWER & WATER EXPANSION	414.50
H4-	WATER DISTRICT 2	39,406.00
SL1-	PT CHAUTAUQUA LIGHT DISTRICT	345.53
SL2-	DEWITTVILLE LIGHTING DISTRICT	360.55
SL4-	BAYBERRY LANDING LIGHTING DIST	23.06
SS1-	CHAUT HEIGHTS SEWER DISTRICT	639.86
SW1-	CHAUT HEIGHTS WATER DISTRICT	5,253.00
SW2-	CHAUT WATER DIST#1[SANDALWOOD]	1,397.42
SW3-	CHAUTAUQUA SHORES WATER DISTRICT	21.02
Total:		151,601.65

Second: Councilman Al Akin

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

Carried

Motion made by Councilman Kenneth Burnett to approve the Supervisor's Report for January and February.

Second: Councilman Scott Cummings

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

Carried

Non-Agenda Items:

Supervisor Emhardt updated the Board on the Town's gas well. Due to freezing issues, the Community Municipal Building was without heat for 4 days. An account has been established with National Fuel and line the line was reconnected to provide an alternate source of gas in the

meantime. The gas well is currently holding 400 pounds of pressure so we will be able to switch back over to the well shortly. Councilman Cummings stated that the Town needs to move forward on a maintenance plan for the well. Empire Energy has been very helpful in aiding with the well and it's much appreciated. Supervisor Emhardt said a new meter has been ordered for the well and he is looking into options for maintenance. Tim Hull stated that he would be willing to assist in establishing a maintenance plan.

Councilman Carlson spoke on an email he shared previously with the Board regarding a concern that was brought up about a possible conflict of interest with one of our Code Enforcement Officers, Ken Shearer, doing inspections in the Village of Mayville since he is also the Mayor for the Village. There was a determination from the New York State Comptroller's office that it can't be done. The Town has taken the stance that the Code Enforcement Officer is under the direction of the Town and not the Village. Supervisor Emhardt stated he also spoke with the Comptroller's office prior to the Town agreeing to conduct the Village's inspections. This determination refers to the mayor being his own boss which is not the case. In this instance, he is an employee of the Town under the direction of the Town Board. Mr. Seachrist stated he did his research prior to the Board adopting the resolution last year, as did the Village's attorney, and didn't find any problems with it. There is no opinion specific to a Village Mayor working as a Town Code Enforcement Officer but there were similar scenarios in which the opinion was found not to be a conflict. Supervisor Emhardt stated that Dave Crandall, while serving as Mayor for the Village of Mayville, conducted fire inspections for the Town. In addition, while serving as the Town Supervisor, he obtained training as a Code Enforcement Officer and worked as such for the Town as needed. This wasn't a problem then and not sure how this is so different. Mark Perry commented that there is a precedent where the Attorney General did a finding on this subject matter in which he can forward to the Board. The concern is that if something was referred to the Village Board by the Zoning or Planning Board, the Mayor could have sway over the Trustees' vote.

Ken Shearer stated that if it came to that, he would recuse himself from voting. Not to mention, he has never swayed the Board on any vote.

Mr. Perry stated he wasn't throwing darts but wanted to make sure this wouldn't be a problem for the Village in the future. He also inquired about the Village fire inspections and feels they are not currently getting this service. Supervisor Emhardt stated fire inspections have not been done in the Village for 12 years before the Town agreed to take on the Village's Code Enforcement but will be scheduled and caught up by the Town.

Councilman Cummings stated that Jeff Paddock is the primary Code Enforcement Officer and suggested to have Ken only conduct inspections outside the Village with the exception of filling in from time to time when more coverage or review is needed. Supervisor Emhardt stated that a Code Enforcement Officer is not part of the Planning Board or the Zoning Board, he only refers matters to them. There is no contradiction with any Code Officer attending these meetings since they are not a voting member.

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 Al Akin – Aye
Councilman Kenneth Burnett – Aye
Councilman Thomas Carlson- Aye

Carried

Rebecca Luba, RMC
Town Clerk
Town of Chautauqua