

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

SS

MARCH 11, 2021

MINUTES OF THE TOWN BOARD MEETING HELD THURSDAY, MARCH 11, 2021, AT THE ELLERY TOWN HALL, SUNNYSIDE AVENUE, BEMUS POINT, NY, AND VIA ZOOM, COMMENCING AT 7:31 PM.

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

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

**ACCEPTANCE – FEBRUARY BOARD MEETING MINUTES**

MOTION BY COUNCILMAN ANDERSON, SECOND BY COUNCILMAN CRESANTI: THAT THE MINUTES OF THE FEBRUARY 11, 2021 BOARD MEETING BE ACCEPTED FOR FILING.

MR. ANDERSON – AYE                      MR. SCHLEMMER – AYE  
MR. HAYES – AYE                         MR. JOHNSON – AYE  
MR. CRESANTI – AYE

**FEBRUARY REPORTS**

TOWN CLERK HAINES SUBMITTED HER FEBRUARY REPORT IN THE AMOUNT OF \$2,588.90. THE CHECK TO THE SUPERVISOR TOTALED \$2,472.94. ALSO SUBMITTED BY TOWN CLERK HAINES WAS THE 2021 TAX COLLECTION REPORT TO DATE OF \$6,442,722.50 COLLECTED.

THE TOWN BOARD REVIEWED/DISCUSSED THE FEBRUARY REPORTS SUBMITTED BY THE ZONING OFFICER AND CODE ENFORCEMENT OFFICER.

THE BOARD ALSO RECEIVED THE FEBRUARY REPORTS SUBMITTED BY THE ASSESSOR, THE TOWN JUSTICES AND TOWN SUPERVISOR

**EXAMINATION ACKNOWLEDGMENT – JUSTICE COURT RECORDS**

MOTION BY COUNCILMAN CRESANTI, SECOND BY COUNCILMAN HAYES: THAT THE 2020 JUSTICE COURTS RECORDS WERE EXAMINED BY COUNCILMAN CRESANTI AND SUPERVISOR JOHNSON AND FOUND TO BE IN ORDER.

MR. ANDERSON – AYE                      MR. SCHLEMMER – AYE  
MR. HAYES – AYE                         MR. JOHNSON – AYE  
MR. CRESANTI – AYE

**7:30 PM – PUBLIC HEARING – LOCAL LAW #1 OF 2021**

TOWN ATTORNEY ROBINSON EXPLAINED THAT THIS LOCAL LAW IS BEING CONSIDERED TO PROTECT THE HEALTH, SAFETY AND WELL BEING OF THE TOWN RESIDENTS AND THEIR PROPERTY BY ESTABLISHING A MORATORIUM ON THE CONSTRUCTION, INSTALLATION AND/OR PERMITTING OF BOTH SOLAR FARMS AND/OR WIND TURBINES/WIND FARMS IN THE TOWN OF ELLERY FOR A PERIOD OF SIX (6) MONTHS FROM THE DATE OF ADOPTION IN ORDER FOR THE TOWN OF ELLERY TO ADOPT REGULATIONS FOR THE CONSTRUCTION, INSTALLATION, PLACEMENT AND PERMITTING OF SOLAR FARMS IN THE TOWN OF ELLERY AND FOR THE TOWN OF ELLERY TO ADOPT REGULATIONS FOR THE CONSTRUCTION, INSTALLATION, PLACEMENT AND PERMITTING OF WIND TURBINES AND WIND FARMS.

MR. ROBINSON NOTED THAT THE PROPOSED LOCAL LAW HAD BEEN REFERRED TO CHAUTAUQUA COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT AND THE DEPARTMENT HAD SENT A LETTER NOTING THAT THIS WOULD BE A MATTER OF LOCAL CONCERN. MR. ROBINSON ALSO NOTED THAT THIS MATTER DOES NOT REQUIRE A SEQ.

MOTION BY COUNCILMAN SCHLEMMER, SECOND BY COUNCILMAN ANDERSON: THAT THE PUBLIC HEARING BE CLOSED.

MR. ANDERSON – AYE                      MR. SCHLEMMER – AYE  
MR. HAYES – AYE                         MR. JOHNSON – AYE  
MR. CRESANTI – AYE

MOTION BY COUNCILMAN SCHLEMMER, SECONDED BY COUNCILMAN HAYES: THAT LOCAL LAW # 1 OF 2021 AS PRESENTED TO THE TOWN BOARD, BE APPROVED AND REFERRED TO THE TOWN PLANNING BOARD FOR THEIR RECOMMENDATIONS.

MR. ANDERSON – AYE                      MR. SCHLEMMER – AYE  
MR. HAYES – AYE                         MR. JOHNSON – AYE  
MR. CRESANTI – AYE

**VOUCHERS**

MOTION BY COUNCILMAN CRESANTI, SECOND BY COUNCILMAN HAYES: THAT VOUCHER #'S 83 THROUGH 125, WARRANT # 3, IN THE AMOUNT OF \$170,790.32, BE PAID AS AUDITED.

MR. ANDERSON – AYE                      MR. SCHLEMMER – AYE  
MR. HAYES – AYE                         MR. JOHNSON – AYE  
MR. CRESANTI – AYE

AT THIS POINT IN THE MEETING SUPERVISOR JOHNSON NOTED THAT HE HAS BEEN CONTACTED BY A REPRESENTATIVE OF THE BEMUS POINT FIRE DEPARTMENT ABOUT THE MONEY THE TOWN WAS PUTTING ASIDE ANNUALLY (\$10,000 /PER YEAR). SUPERVISOR JOHNSON SAID HE WAS TOLD THAT THE HEAVY DUTCY RESCUE TRUCK WAS NOT GOING TO BE PURCHASED SO THE TOWN DISCONTINUED SETTING ASIDE MONEY FOR THE PURCHASE. IT SEEMS NOW THE DEPARTMENT IS GOING TO BE PURCHASING OR HAS PURCHASED A USED HEAVY DUTY RESCUE TRUCK AND ARE AGAIN ASKING FOR MONEY. SUPERVISOR JOHNSON SAID IT IS SOMETHING FOR THE BOARD TO LOOK AT DURING THE NEXT BUDGET CYCLE.

**7:45 PM - PUBLIC HEARING – SPECIAL USE PERMIT – FLUVANNA SCHOOL**

1. DJ TOSH, ARROWS CAPITAL GROUP – WAS PRESENT AND SPOKE ABOUT THE PROJECT TO REPURPOSE THE OLD FLUVANNA SCHOOL INTO LONG AND SHORT TERM APARTMENTS. THE EXTERIOR WOULD BASICALLY REMAIN THE SAME EXCEPT POSSIBLY SOME PAINTING WITH THE INTERIOR BEING RENOVATED INTO HIGH END APARTMENTS.

ATTORNEY ROBINSON SPOKE ABOUT THE LETTER FROM JAKE WHITING OF WHITING LAW FIRM, WHO REPRESENTS MR. TOSH’S INTEREST IN THIS MATTER. THE TOWN BOARD MEMBERS HAVE ALL BEEN PROVIDED WITH A COPY OF THE LETTER AS WELL AS PART ONE OF THE SHORT ENVIRONMENTAL FORM, PROJECT INFORMATION, FOR THEIR REVIEW. PART TWO WILL HAVE TO BE COMPLETED BY THE TOWN BOARD.

TOWN BOARD MEMBERS ASKED MR. TOSH TO PROVIDE A SITE PLAN SHOWING ELEVATION, LIGHTING, LANDSCAPING, A RENDERING OF THE BUILDING EXTERIOR, PARKING (INCLUDING HANDICAPP ACCESSIBLE PARKING), TRASH CONTAINERS, ETC.

MR. TRUVER, FLUVANNA TOWNLINE ROAD – STATED THAT HE AS THE NEXT DOOR NEIGHBOR IS CONCERNED ABOUT WATER CAPACITY. HE ALSO NOTED THAT HE HAS A 28 FOOT RIGHT-OF-WAY THAT’S BEEN IN EFFECT FOR 35 YEARS. HE USES IT TO ACCESS HIS BACK PROPERTY. MR. TRUVER ALSO SUBMITTED A LETTER STATING HIS CONCERNS. THE BOARD MEMBERS ALL RECEIVED A COPY OF MR. TRUVER’S LETTER.

ATTORNEY ROBINSON TOLD MR. TRUVER THAT IF THE RIGHT-OF-WAY IS IN HIS DEED IT WOULD REMAIN.

AT THIS POINT, THE BOARD MEMBERS AGAIN STATED THEY WANT MORE DETAILS AND COUNCILMAN HAYES SAID A SURVEY SHOULD BE PROVIDED.

IT WAS ALSO NOTED THAT A STORM WATER DRAINAGE PLAN SHOULD BE INCLUDED IN THE ADDITIONAL INFORMATION TO BE PROVIDED TO THE TOWN BOARD.

MOTION BY COUNCILMAN SCHLEMMER, SECOND BY COUNCILMAN CRESANTI: THAT THE PUBLIC HEARING BE ADJOURNED UNTIL THE APRIL BOARD MEETING AT 7:45 PM.

MR. ANDERSON – AYE  
MR. HAYES – AYE  
MR. CRESANTI – AYE

MR. SCHLEMMER – AYE  
MR. JOHNSON – AYE

**SET DATE – APRIL TOWN BOARD MEETING**

TOWN CLERK HAINES ASKED IF EVERYONE WOULD BE ABLE TO ATTEND THE BOARD MEETING ON THE 8<sup>TH</sup> OF APRIL DUE TO THE FACT THAT IT WILL BE SPRING BREAK.

MOTION BY COUNCILMAN ANDERSON, SECOND BY COUNCILMAN HAYES: THAT THE APRIL TOWN BOARD MEETING BE RESCHEDULED FOR APRIL 15, 2021.

MR. ANDERSON – AYE  
MR. HAYES – AYE  
MR. CRESANTI – AYE

MR. SCHLEMMER – AYE  
MR. JOHNSON – AYE

**PUBLIC**

1. RICH CARLSON OF BAYSO – ASKED IF THE TOWN PARK WILL BE OPENED AT THE REGULAR TIME (2<sup>ND</sup>/3<sup>RD</sup> WEEK OF APRIL) SO THAT THE SOCCER TEAMS CAN BE PRACTICING/PLAYING?

MOTION BY COUNCILMAN SCHLEMMER: THAT THE TOWN OPEN THE TOWN PARK ON THE REGULAR SCHEDULE FOR 2021.

AFTER DISCUSSION IT WAS DECIDED THAT BAYSO CAN USE THE FIELDS BUT THERE WILL BE NO USE OF THE RESTROOM FACILITIES AT THIS TIME AND A DECISION ON FULLY OPENING UP WILL BE MADE AT THE APRIL TOWN BOARD MEETING.

**RESOLUTION – HERBICIDES**

TOWN ATTORNEY ROBINSON PRESENTED THE FOLLOWING RESOLUTION:

At a regularly scheduled meeting of the Town Board of the Town of Ellery on March 11, 2021 at the Town of Ellery Administration Building, 25 Sunnyside Avenue, Bemus Point, New York, 14712, the following Resolution was moved by Councilman Schlemmer, seconded by Councilman Anderson:

WHEREAS, the Town of Ellery is a riparian owner on Chautauqua Lake, New York, and

WHEREAS, in accordance with Article 15 of the New York State Environmental Conservation Law and Park 327 of the official Compilation of Codes, Rules and Regulations of the State of New York, the New York State of Environmental Conservation must issue a permit prior to the application of herbicides to waters within the State of New York, and

WHEREAS, the Town of Ellery desires to apply certain herbicides to the waters of Chautauqua Lake in coordination with the Village of Bemus Point in 2021, and

WHEREAS, IN ORDER FOR THE Town of Ellery to apply said herbicides, it is necessary that it receive permits to do so from the New York State Department of Environmental Conservation, and

WHEREAS, the Town of Ellery has retained SOLitude Lake Management to prepare and facilitate the processing of said herbicide permit applications with the New York State Department of Environmental Conservation, it is

RESOLVED, that Arden E. Johnson, Supervisor of the Town of Ellery, is authorized to sign any and all documentation in connection with any herbicide permit application to the New York State Department of Environmental Conservation on behalf of the Town of Ellery.

Upon roll call vote,

Supervisor Johnson – Aye

Councilman Schlemmer – Aye

Councilman Cresanti – Aye

Councilman Hayes - Aye

Councilman Anderson – Aye - MOTION CARRIED

**LAKE RELATED ISSUES – JIM WEHRFRITZ**

TOWN OF ELLERY LAKE CONSULTANT JIM WEHRFRITZ SUBMITTED A LIST OF LAKE RELATED ISSUES HE WANTED TO ADDRESS:

1. HERBICIDE PERMITTING UPDATE
2. ALLIANCE UPDATE
3. CLPRA UPDATE
4. 2021 COUNTY MOU TO REPLACE EXPIRING 2019 MOA

IT WAS NOTED THAT THE TOWN BOARD HAD JUST PASSED THE HERBICIDE RESOLUTION. MR. WEHRFRITZ GAVE THE TOWN BOARD WRITTEN INFORMATION CONCERNING THE CLPRA, THE FOIL REQUESTS AND MOU/MOA ISSUE.

AFTER A LOT OF DISCUSSION BY THE BOARD AND MR. WEHRFRITZ, A MOTION WAS MADE BY COUNCILMAN HAYES, SECOND BY COUNCILMAN SCHLEMMER: THAT THE TOWN BOARD AUTHORIZES TOWN ATTORNEY ROBINSON TO FOIL FOR THE LON COMMENTS TO THE DEC AND ALSO FOIL THE COUNTY/ALLIANCE FOR THE RAW SURVEY DATA OF THE CLPRA, NOTING THAT IT'S BEEN DONE DURING THE TIME NON-RESIDENTS ARE NOT IN THE AREA.

MR. ANDERSON – AYE  
MR. HAYES – AYE  
MR. CRESANTI – AYE

MR. SCHLEMMER – AYE  
MR. JOHNSON – AYE

**HIGHWAY SUPERINTENDENT'S REPORT**

HIGHWAY SUPERINTENDENT HALLBERG NOTED HIS DEPARTMENT HAS BEEN BUSY WITH SEASONAL WORK. IN ANSWER TO ONE OF THE COUNCILMANS QUESTION ABOUT THE RADIOS IN THE TRUCKS, MR. HALLBERG SAID YES THAT ALL TRUCKS HAVE RADIOS. THE NEW TRUCK WILL HAVE THE RADIO INSTALLED SHORTLY. THE COUNTY AND THE TOWNS ARE NOT NECESSARILY ON THE SAME BAND SO SOME OF THE TOWN RADIOS DO NOT WORK WITH THE COUNTY. THE TOWNS OF ELLERY AND STOCKTON ARE LICENSED TOGETHER AND USE HIGH BAND. THE FOUR COUNTY RADIOS ARE LOW BAND. NEW RADIOS ARE NOT BEING PURCHASED.

**CORRESPONDENCE & MISCELLANEOUS**

ALL BOARD MEMBERS RECEIVED A COPY OF THE LETTER FROM BESTWAY CONTAINER SERVICES, LLC. NOTING THAT THE BUSINESS HAS BEEN ACQUIRED BY CASELLA WASTE SYSTEMS, INC. AS OF FEBRUARY 1, 2021.

**ATTORNEY'S REPORT**

TOWN ATTORNEY ROBINSON SAID HE WILL NEED A SHORT EXECUTIVE SESSION WITH THE TOWN BOARD CONCERNING HIGHWAY DEPARTMENT NEGOTIATIONS.

**EXECUTIVE SESSION**

MOTION BY COUNCILMAN HAYES, SECOND BY COUNCILMAN SCHLEMMER: THAT THE BOARD GO INTO EXECUTIVE SESSION AT 9:20 PM, TO DISCUSS NEGOTIATIONS.

MR. ANDERSON – AYE  
MR. HAYES – AYE  
MR. CRESANTI – AYE

MR. SCHLEMMER – AYE  
MR. JOHNSON – AYE

THERE WAS NO INFORMATION PROVIDED TO THE TOWN CLERK PERTAINING TO THE RETURN TO REGULAR SESSION AND ADJOURNMENT.

SUBMITTED:



REBECCA H. HAINES, RMC/MMC  
ELLERY TOWN CLERK

/RHH