

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

SS

MAY 13, 2021

MINUTES OF THE TOWN BOARD MEETING HELD THURSDAY, MAY 13, 2021, AT THE ELLERY TOWN HALL, SUNNYSIDE AVENUE, BEMUS POINT, NY, AND VIA ZOOM, COMMENCING AT 7:30 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 7:30 PM. THE PLEDGE OF ALLEGIANCE WAS OBSERVED.

APRIL 15, 2021 BOARD MEETING MINUTES

MOTION BY COUNCILMAN SCHLEMMER, SECOND BY COUNCILMAN CRESANTI: THAT THE MINUTES OF THE APRIL 15, 2021 BOARD MEETING WERE PRESENTED FOR FILING.

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

DAVID MARSHALL – EAGLE SCOUT PROJECT

EAGLE SCOUT CANDIDATE, DAVID MARSHALL GAVE AN UPDATE ON HIS EAGLE SCOUT PROJECT WHICH CONSISTS OF CONSTRUCTING A VOLLEYBALL PIT AT THE TOWN PARK. THE TOWN WILL HELP WITH THE DIGGING OF THE PIT AND PUTTING IN THE WEED BARRIER. DAVID SAID HIS BUDGET FOR THE ENTIRE PROJECT IS \$2,100.00 AND HE ASKED THE TOWN BOARD TO CONTRIBUTE \$1,500.00.

MOTION BY COUNCILMAN ANDERSON, SECOND BY COUNCILMAN SCHLEMMER: THAT THE TOWN OF ELLERY CONTRIBUTE \$1,500.00 TO DAVID MARSHALL'S EAGLE SCOUT PROJECT.

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

HIGHWAY DEPARTMENT – LETTER TO SUPERVISOR AND TOWN BOARD

SIX OF THE EIGHT HIGHWAY DEPARTMENT EMPLOYEES WERE IN ATTENDANCE AT THE MEETING. PETER SAMUELSON, REPRESENTING THE EMPLOYEES, READ THE FOLLOWING LETTER:

Good Evening

My name is Pete Samuelson and I'm a 34 year employee with the Town of Ellery Highway Department. I am attending tonight's board meeting with Highway Department coworkers Vance Lutgen, 34 years of service. Jeff Clark 23 years of service. Ron Crandall 22 years of service. Todd Park 19 years of service. Steve Darling 15 years of service. Darrin Kesby 8 years of service. Randy Trim 4 years of service.

The Highway Department employees are here tonight to convey our dis=satisfaction with the town board and supervisor Arden Johnson.

This past October, after years of frustration, asking for fair and open negotiations, transparency regarding health insurance and premiums, and the failure to negotiate fair annual cost of living increases, we have sought representation by Teamsters Local 264.

We would like to state for the record that we stand united in our decision to join Teamsters Local 264.

In 2009 we sent Town Supervisor Johnson a letter conveying our dis-satisfaction regarding the process when negotiating wages, health insurance, and other employee benefits. Nothing has changed. The highway employees have been more than patient. Twelve years patient and nothing has changed. Therefore our decision to join Teamsters Local 264 was an easy one.

Since the recognition of the union back in October we continue to witness the same tactics the board employed prior to our affiliation with the union. Two meetings since October is unacceptable. Negotiation meetings are schedules months out. Dates are pushed back. Dates are canceled and rescheduled months later. Your first offer of 0% percent is offensive.

Whether your tactics are retaliatory, calculated, or just the boards way of not dealing with the issues we can state that with each passing day the division and animosity continues to fester. We believe that its past due that you begin to treat the Highway employees with the respect and dignity that we deserve.

In closing, we have come here tonight choosing to keep the rhetoric to a minimum. That is not a guarantee for the future. We do state for the record that we are tired of taking a backseat to the town park, the lake, the lawsuits, and the targeted pay raises for a few and not others.

You can choose going forward, by your actions, whether our differences are considered, negotiated fairly and attempt to restore the division that exists.

Thank you for your time and good night.

SUPERVISOR JOHNSON SAID THAT THERE IS A UNION NEGOTIATION MEETING SET FOR MONDAY THE 17TH.

APRIL REPORTS

TOWN CLERK, REBECCA HAINES, SUBMITTED HER APRIL REPORT IN THE AMOUNT OF \$7,457.00. THE CHECK TO THE TOWN TOTALED \$7,274.24.

TOWN CLERK HAINES THEN EXPLAINED THAT THE DEWITTVILLE FIRE PROTECTION DISTRICT HAS NOT RETURNED THE CONTRACT FOR FIRE/EMERGENCY SERVICES THAT HAD BEEN SENT TO THEM BACK IN FEBRUARY. UPON FURTHER INQUIRY WITH TOWN OF CHAUTAUQUA SUPERVISOR DON EMHARDT, TOM KESBY, PRESIDENT OF THE DEWITTVILLE FIRE COMMISSIONERS WAS CONTACTED AND DEPUTY TOWN CLERK BRAUND WAS TOLD THAT THE FIRE DEPARTMENT WAS NOT GOING TO SIGN THE CONTRACT BECAUSE THEY HAD REQUESTED \$6,000.00 FOR 2021 AND THE CHECK AMOUNT WAS \$2,194.00. TOWN CLERK HAINES EXPLAINED THAT THE CHECK CANNOT BE SENT TO THE DISTRICT WITHOUT A VALID CONTRACT.

THERE WAS SOME DISCUSSION AND IT WAS DECIDED THAT TOWN CLERK HAINES WILL PROVIDE INFORMATION TO TOWN ATTORNEY ROBINSON SO THAT HE CAN WRITE A LETTER TO THE DEWITTVILLE FIRE COMMISSIONERS.

RESIGNATION – BOARD OF APPEALS – BILL WINCHESTER

LONGTIME BOARD OF APPEALS MEMBER, BILL WINCHESTER, SUBMITTED HIS RESIGNATION EFFECTIVE MAY 1, 2021.

THE BOARD BRIEFLY DISCUSSED THREE POTENTIAL BOARD MEMBERS – JIM STEIBER, CRAIG HALL AND JEN BRIGGS. IT WAS AGREED THAT THE MATTER WILL BE DISCUSSED AT THE NEXT BOARD MEETING.

PLANNING BOARD MATTERS

KERRY CRIST, CHAIRWOMAN OF THE PLANNING BOARD, NOTED THAT SEVERAL REQUESTS WERE BROUGHT UP AT THE LAST PLANNING BOARD MEETING. MR. SNYDER OF 4940 HALE ROAD IS REQUESTING A “BLIND DRIVEWAY” SIGN BE ERECTED NEAR HIS DRIVEWAY. IT HAS ALSO BEEN REQUESTED THAT THE SPEED LIMIT ON THE MAHANNA ROAD BE REDUCED FROM 55 MPH TO 45 MPH AND LAST, IT HAS BEEN REQUESTED THAT THE “T” INTERSECTION OF MAHANNA/WALKER-HALE ROADS HAVE A 3 WAY STOP SIGN SO THAT ALL MOTORISTS HAVE TO STOP AT THE INTERSECTION.

THE MATTERS WILL BE LOOKED INTO BY HIGHWAY SUPERINTENDENT, GREG HALLBERG.

DON PINAK, HALE ROAD, VIA ZOOM, NOTED THAT HE AND OTHER NEIGHBORS HAVE SUBMITTED A PETITION ASKING THE TOWN BOARD REQUIRE A SEQR FOR THE SAWMILL ON THE LUTGEN PROPERTY. IT WAS NOTED THAT THE SPECIAL USE PERMIT FOR THE SAWMILL HAD BEEN GRANTED BY THE PLANNING BOARD. TOWN ATTORNEY ROBINSON NOTED THAT A SEQR IS NOT REQUIRED FOR THE SPECIAL USE PERMIT.

THERE WAS A LOT OF BACK AND FORTH DISCUSSION AND THE AREA RESIDENTS SAID THEY WANTED ANSWERS TO THE QUESTIONS THEY HAD ASKED PREVIOUSLY. IT WAS NOTED THAT MR. LUTGEN HAS NOT YET PICKED UP HIS BUILDING PERMIT BUT THAT ALL THE ZONING LAWS AND REGULATIONS HAVE BEEN FOLLOWED TO THIS POINT IN THE PROCESS.

THERE WERE ALSO COMPLAINTS ABOUT DEBRIS BEING DUMPED ON THE PROPERTY AND ALSO THAT THERE IS A LOT OF NOISE, INCREASED TRUCK TRAFFIC, ODORS AND BURNING. MRS. PINAK SAID THAT THE BEMUS CREEK IS BEING AFFECTED BECAUSE DEBRIS IS BEING DUMPED THERE. IT WAS NOTED THAT THE NYS DEC SHOULD BE CALLED IF THAT IS THE CASE.

THE BOARD REVIEWED THE REPORT SUBMITTED BY CEO SAMUELSON. MR. SANUELSON SAID HE HAS HAD A COMPLAINT ABOUT A SAILBOAT AND TRAILER BEING LEFT ON THE PROPERTY AT

THE INTERSECTION OF ROUTE 430 AND BELLEVIEW HEIGHTS. RIGHT NOW NOTHING CAN REALLY BE DONE BECAUSE IT IS AN ESTATE (SALLY LAWSON) MATTER.

OTHER REPORTS SUBMITTED TO THE BOARD WERE FROM THE ASSESSOR, TOWN JUSTICES AND TOWN SUPERVISOR.

PUBLIC

1. WILL SCHLEMMER, LAKESIDE DRIVE – ADDRESSED THE TOWN BOARD AND PRESENTED A WRITTEN PLAN FOR HIS PROPOSED EAGLE SCOUT PROJECT. HE EXPLAINED THAT HE WOULD LIKE TO PLANT A VARIETY OF TREES IN THE NEW AREA OF THE TOWN OF ELLERY’S CEMETERY IN BEMUS POINT. HE IS IN CONTACT WITH CEMETERY SEXTON, JASON ADAMS AND HIGHWAY SUPERINTENDENT/CEMETERY MANAGER, GREG HALLBERG ABOUT THE PROPOSED PROJECT.
2. TERRY SAYE, MAHANNA ROAD – SAID HE WANTED THE BOARD TO KNOW FOR THE RECORD THAT HE IS OPPOSED TO THE SAWMILL ON THE LUTGEN PROPERTY.

VOUCHERS

MOTION BY COUNCILMAN CRESANTI, SECOND BY COUNCILMAN HAYES: THAT VOUCHER #'S 179 THROUGH 226, WARRANT # 5, IN THE AMOUNT OF \$94,160.76, BE PAID AS AUDITED.

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

HIGHWAY SUPERINTENDENT’S REPORT

HIGHWAY SUPERINTENDENT HALLBERG REPORTED THAT HIS DEPARTMENT HAS BEEN BUSY DITCHING, HAULING GRAVEL, WORKING ON THE SHOULDERS OF THE ROADS, ETC.

COUNCILMAN CRESANTI COMPLIMENTED MR. HALLBERG, SAYING THE CEMETERY AND TOWN PARK ARE LOOKING GREAT – ESPECIALLY THE CEMETERY.

ATTORNEY’S REPORT

TOWN ATTORNEY ROBINSON NOTED THAT HE HAD SENT 3 FOIL REQUESTS AT THE DIRECTION OF THE TOWN BOARD. THE REQUESTS ARE RELATED TO CORRESPONDENCE TO THE DEC RELATED TO THE APPLICATION OF HERBICIDES, THE SURVEY DATA FOR THE PROPOSED LAKE DISTRICT AND MORE INFORMATION FROM THE COUNTY/ALLIANCE BOARD.

IN ANOTHER MATTER, MR. ROBINSON SAID HE HAS BEEN CONTACTED BY JEFFREY AND DEIRDRE SEMONOVICH, CHENEY DRIVE WHO OWN THE PROPERTY NEXT TO THE 10 FOOT RIGHT-OF-WAY THE TOWN OWNS WHICH IS NEXT TO THE CHENEY DRIVE COMMUNITY OWNED 10 FOOT RIGHT-OF-WAY. THE SEMONOVICH’S ARE CONCERNED ABOUT LIABILITY ON THE TOWN OWNED RIGHT-OF-WAY BECAUSE RESIDENTS OF THE CHENEY DEVELOPMENT WHO HAVE LAKE ACCESS ARE USING THIS 10 FEET IN ADDITION TO THE OTHER COMMUNITY 10 FEET. THE SEMONOVICH’S WOULD EITHER LIKE TO PURCHASE THE 10 FEET FROM THE TOWN OR GIVE UP ANY/ALL CLAIM

TO THE PROPERTY (THEIR DEED SHOWS THEY OWN IT). FOR MANY YEARS THE TOWN HAS BEEN UNDER THE IMPRESSION THAT IT ONLY HAS A DRAINAGE EASEMENT BUT THAT IS NOT THE CASE. MR. ROBINSON SAID HE WILL LOOK INTO THE MATTER OF THE TOWN OWNED RIGHT-OF-WAY AND REPORT BACK TO THE BOARD.

SCHEDULE JUNE TOWN BOARD MEETING

MOTION BY COUNCILMAN HAYES, SECONDED BY COUNCILMAN SCHLEMMER: THAT THE JUNE 10, 2021, TOWN BOARD MEETING BE HELD AT THE ELLERY TOWN PARK, PAVILION #1, HEINEMANN ROAD, COMMENCING AT 7:00 PM.

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

LAKE RELATED MATTERS

LAKE CONSULTANT, JIM WEHRFRITZ NOTED THAT THE FIRST OF THE HERBICIDES FOR 2021 HAVE BEEN COMPLETED. THE TOWN OF ELLERY HAD 100 ACRES OF CURLY LEAF PONDWEED TREATED WITH AQUATHOL K ON THE 12TH. THE NEXT HERBICIDE TREATMENT FOR EURASIAN WATER MILFOIL IS SCHEDULED FOR JUNE.

COUNCILMAN SCHLEMMER SAID THE ALLIANCE HAD NOTIFIED THE BOARD THAT THE NEW MOU WOULD NEED TO BE SIGNED BEFORE THE TOWN WAS PAID THE GRANT FUNDS ALLOCATED TO THE TOWN OF ELLERY AND VILLAGE OF BEMUS POINT FOR HERBICIDE TREATMENT. IT WAS POINTED OUT TO THE ALLIANCE THAT THE MOU WAS STILL IN DRAFT FORM SO THERE WAS NO DOCUMENT TO BE SIGNED AND THE BOTTOM LINE IS THAT THE TOWN WILL BE RECEIVING THE \$30,000 AS PER THE GRANT.

SUPERVISOR JOHNSON HAD SUBMITTED BOARD MEMBER, JOHN CRESANTI, FOR A CANDIDATE POSITION ON THE ALLIANCE BOARD. MUCH TO THE DISAPPOINTMENT OF THE TOWN, MR. CRESANTI'S NAME WAS NOT EVEN ON THE SLATE TO BE VOTED ON.

PROPOSED MOU – CHAUTAUQUA LAKE

THERE WAS A LIVELY DISCUSSION ABOUT THE PROPOSED MOU (SE) BEING PROMOTED BY CHAUTAUQUA COUNTY EXECUTIVE, PJ WENDEL DURING THE DISCUSSION THE FOLLOWING THOUGHTS WERE EXPRESSED: TOWN ATTORNEY ROBINSON SAID THE AGREEMENT WAS NON-BINDING, UNENFORCEABLE, VAGUE AND AMBIGUOUS. COUNCILMAN SCHLEMMER SAID THAT THE TOWNS/VILLAGES WERE SUPPOSED TO HAVE MORE INPUT INTO THE MEMORANDUM AND NOT JUST PRESENTED WITH A FINAL DOCUMENT AND CALLED THE DOCUMENT A COMPLETE AND DRASTIC CHANGE IN RELATION TO WHAT THE BOARD WAS EXPECTING. SUPERVISOR JOHNSON THAT THERE ARE TOO MANY AGENCIES INVOLVED AND TOO MANY IDEAS AND THE COUNTY EXECUTIVE JUST WANTS EVERYBODY TO SIGN IN GOOD FAITH. MR. ROBINSON SAID THAT THE DOCUMENT IS MEANINGLESS. COUNCILMAN HAYES SAID HE WAS DISAPPOINTED WITH THE DOCUMENT. HE FEELS THAT THERE WAS A LACK OF DISCUSSION ABOUT THE CONTENT OF THE MOU AND IT APPEARS TO BE SEVERAL STEPS BACKWARD. WHEREAS THE COUNTY EXECUTIVE SAYS THE MOU IS BRILLANT IN ITS SIMPLICITY, COUNCILMAN HAYES SAID HE WOULD ARGUE THAT IT'S SIMPLE TO THE POINT OF BEING MEANINGLESS. HE SAID IT IS A PROCLAMATION AND NOTHING MORE. MR. HAYES SAID THAT NOT SIGNING THE DOCUMENT IS

NOT A REFLECTION OF OUR COMMITMENT TO THE LAKE OR OUR COMMITMENT TO WORKING TOGETHER WITH OTHER PARTNERS. TOWN ATTORNEY ROBINSON CAUTIONED THE BOARD TO CROSS OUT SECTION “G” IF/BEFORE THE AGREEMENT IS SIGNED.

MOTION BY COUNCILMAN ANDERSON, SECOND BY COUNCILMAN SCHLEMMER: THAT THE MATTER BE TABLED FOR A MONTH AFTER WHICH THERE CAN BE MORE DISCUSSION.

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

MR. SCHLEMMER – AYE
MR. JOHNSON – AYE

EXECUTIVE SESSION


MOTION BY COUNCILMAN ANDERSON, SECOND BY COUNCILMAN SCHLEMMER: THAT THE BOARD GO INTO EXECUTIVE SESSION AT 9:19 PM, TO DISCUSS UNION NEGOTIATIONS AND POSSIBLE LITIGATION.

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