

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

SS

JULY 8, 2021

MINUTES OF THE TOWN BOARD MEETING HELD THURSDAY, JULY 8, 2021, AT THE ELLERY TOWN PARK, PAVILION 2, HEINEMANN ROAD, GREENHURST NY COMMENCING AT 7:01 PM.

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

ABSENT: 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 7:01 PM. THE PLEDGE OF ALLEGIANCE WAS OBSERVED.

#### JUNE 10, 2021 BOARD MEETING MINUTES

MOTION BY COUNCILMAN SCHLEMMER, SECOND BY COUNCILMAN CRESANTI: THAT THE MINUTES OF THE JUNE 10, 2021 BOARD MEETING WERE PRESENTED FOR FILING.

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

#### JUNE REPORTS

TOWN CLERK, REBECCA HAINES, SUBMITTED HER JUNE REPORT IN THE AMOUNT OF \$9,699.00. THE CHECK TO THE TOWN TOTALED \$9,052.57.

#### PUBLIC FUNDS CERTIFIED RESOLUTIONS

MOTION BY COUNCILMAN SCHLEMMER, SECOND BY COUNCILMAN HAYES: THAT THE TOWN OF ELLERY ADOPT THE PUBLIC FUNDS CERTIFIED RESOLUTION FOR ALL BANK ACCOUNTS REQUIRING SIGNATURES; TOWN CLERK, TAX COLLECTOR, GENERAL AND HIGHWAY ACCOUNTS, AS PRESENTED.

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

ALSO SUBMITTED WERE JUNE REPORTS FROM THE ZONING OFFICER, ASSESSOR, TOWN JUSTICES AND SUPERVISOR.

**PUBLIC**

1. CHERYL JOHNSON, JENNIFER JOHNSON AND SONYA JOHNSON, ROUTE 430 – SPOKE SEPARATELY AND COLLECTIVELY ABOUT THE ATROCIOUS CONDITION OF THE CONDEMNED PROPERTY OWNED BY PATRICK LUCARIELLO. THEY ARE FACED WITH LOOKING AT THE MESS, SUFFERING BREAKINS ON THEIR PROPERTIES BY THE SQUATTERS AND HARRASSMENT FROM MR. LUCARIELLO.

THE BOARD AND TOWN ATTORNEY ASSURED THEM THAT EVERYTHING THAT CAN BE DONE IS BEING DONE AT THIS POINT AND HOPEFULLY WITH TOWN COURTS OPENING UP ON THE 26<sup>TH</sup> OF JULY MORE CAN BE DONE TO REMEDY THE SITUATION.

2. DEB MOORE, CHENEY DRIVE – ASKED FOR AN UPDATE ON THE TOWN OWNED RIGHT-OF-WAY IN THE CHENEY ALLOTMENT.

TOWN ATTORNEY ROBINSON NOTED THAT THE TOWN SUPERVISOR HAS TO FILE A CERTIFICATE OF ABANDONMENT FOR THE TOWN OWNED RIGHT-OF-WAY WITH THE COUNTY CLERK AND THEN THE RESIDENTS OF THE CHENEY ALLOTMENT ARE FREE TO COMMENCE EFFORTS TO BUY THE PROPERTY.

**BUDGET TRANSFERS/MODIFICATIONS**

MOTION BY COUNCILMAN SCHLEMMER, SECOND BY COUNCILMAN CRESANTI: THAT THE FOLLOWING BUDGET TRANSFERS BE APPROVED:

\$400 FROM A1355.42 – ASSESSOR – CONTRACTUAL – BOARD OF ASSESSMENT REVIEW TO ASSESSOR – PERSONAL SERVICES – BOARD OF ASSESSMENT REVIEW

\$300 FROM A1990.4 – CONTINGENT TO A7270.4 – BAND CONCERTS – CONTRACTUAL

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

**VOUCHERS**

MOTION BY COUNCILMAN CRESANTI, SECOND BY COUNCILMAN HAYES: THAT VOUCHERS #'S 277 THROUGH 332, WARRANT #7, IN THE AMOUNT OF \$150,180.65, BE PAID AS AUDITED.

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

**LEGISLATOR’S REPORT**

LEGISLATOR CHAGNON REPORTED THAT THE COUNTY ACCEPTED INCREASED NYS FUNDING FOR CAPITAL IMPROVEMENTS TO CHAUTAUQUA COUNTY’S ROADS AND BRIDGES, RECEIVING INCREASED CHIPS FUNDS OF \$1,588 K, INCREASED PAVE NY FUNDS OF \$595K, AND INCREASED EXTREME WEATHER RECOVERY FUNDS OF \$951K; ROLLED OVER LEASES OF 7 LIGHT TRUCKS FOR THE DEPARTMENT OF PUBLIC FACILITIES. THE TRUCKS WERE LEASED TWO YEARS AGO, AND THE TOTAL GAIN ON THE FOLLOVER WAS \$100K. IN ORDER TO CAPITALIZE ON THE CURRENT MARKET CONDITIONS AND TO ENSURE DELIVERY OF VEHICLES, THE COUNTY AUTHORIZED INCREASING THE EXISTING FLEET OF 16 LEASED VEHICLES UP TO 54 LEASED VEHICLES; THE COUNTY LEGISLATURE HAD PREVIOUSLY ESTABLISHED THE CHAUTAUQUA LAKE PROTECTION AND REHABILITATION AGENCY TO REVIEW AND RECOMMEND TO THE COUNTY LEGISLATURE WHETHER IT IS IN THE BEST INTEREST OF THE COUNTY TO CREATE A CHAUTAUQUA LAKE PROTECTION AND REHABILITATION DISTRICT PURSUANT TO ARTICLE 5-1 OF THE COUNTY LAW. A RESOLUTION WAS PASSED TO EXPAND THE MEMBERSHIP OF THE AGENCY TO INCLUDE AN ELECTED OFFICIAL FROM EACH OF THE TOWNS AND VILLAGES BORDERING CHAUTAUQUA LAKE; SALES TAX REVENUE RECEIVED THROUGH THE END OF JUNE WAS 23.67% GREATER THAN THE SAME PERIOD LAST YEAR.

IT WAS NOTED THAT COUNCILMAN HAYES WILL BE THE TOWN OF ELLERY CLPRA REPRESENTATIVE.

**HIGHWAY SUPERINTENDENT’S REPORT**

HIGHWAY SUPERINTENDENT HALLBERG REPORTED THAT HIS DEPARTMENT HAS BEEN BUSY WORKING ON ALL THE PROJECTS NORMALLY TAKING PLACE THIS TIME OF YEAR.

**ATTORNEY’S REPORT**

MR. ROBINSON NOTED THAT HE HAD THE NEW CONTRACT FOR ASSESSOR SERVICES WITH THE TOWNS OF CHAUTAUQUA AND NORTH HARMONY. THE CONTRACT TERMS HAVE NOT CHANGED AND THE TOWN OF ELLERY WILL AGAIN RECEIVE \$5,000.

MOTION BY COUNCILMAN HAYES, SECOND BY COUNCILMAN CRESANTI: THAT THE SUPERVISOR IS AUTHORIZED TO SIGN THE NEW CONTRACT FOR ASSESSOR SERVICES WITH THE TOWNS OF CHAUTAUQUA AND NORTH HARMONY.

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

MR. ROBINSON ALSO NOTED THAT THE TOWN WILL HAVE TO BEGIN TO THINK ABOUT OPTING OUT OF ALLOWING MARIJUANA SALES, ON SITE CONSUMPTION LOCATIONS, ETC. OR ALLOWING IT IN SOME AREAS OF THE TOWN. HE URGED THE BOARD TO BEGIN THINKING ABOUT IT AND HE WILL HAVE MORE INFORMATION ABOUT IT AT NEXT MONTHS MEETING.

**LAKE RELATED MATTERS**

LAKE CONSULTANT, JIM WEHRFRITZ, NOTED THAT 2021 TOWN OF ELLERY HERBICIDE TREATMENT HAS COME TO AN END. 100 ACRES OF CURLY LEAF PONDWEED WAS TREATED WITH AQUATHOL-K, MAY 12, 13<sup>TH</sup>. 10 ACRES OF EURASIAN WATER MILFOIL WAS TREATED WITH PROCELLACOR EC, JUNE 10<sup>TH</sup>. 56 PERMITTED ACRES WERE DISALLOWED BY THE DEC ON THE DAY OF TREATMENT – NO WEEDS?! ALL WATER USE RESTRICTIONS WERE REMOVED AS OF JUNE 22<sup>ND</sup>. THERE WILL BE A MEETING ON JULY 20<sup>TH</sup> WITH SOLITUDE AND OTHERS TO REVIEW 2021 AND PLAN FOR 2022.

MR. WEHRFRITZ THEN TRUNED HIS ATTENTION TO REPORTING ON RECENT ACTIVITIES OF THE ALLIANCE. HE NOTED THAT THE RECENT ELECTIONS WERE INCONSISTENT WITH THE BY-LAWS – PIERRE (OUTGOING CHAIRMAN, AGREED TO UPGRADE PROCEDURES FOR 2022. BRUCE ERICKSON OF THE CLA IS THE NEW ALLIANCE BOARD CHAIRMAN. THERE WAS A PUBLIC BOARD MEETING TODAY PRIOR TO THE TOWN BOARD MEETING. THE TOWN OF ELLERY MUST DECIDE WHETHER TO REJOIN.

ALSO REPORTED BY MR. WEHRFRITZ WERE ACTIONS AT THE JULY 1<sup>ST</sup> MEETING OF CHAUTAUQUA LAKE PROTECTION AND REMEDIATION AGENCY. THE “PRIVILEGE OF THE FLOOR” WAS FIRST ON THE AGENDA BEFORE ANY PRESENTATIONS AND NO QUESTIONS/COMMENTS WERE ALLOWED AFTER WHICH SEEMS A BIT BACKWARDS. AN INFORMAL VOTE BY 60 ATTENDEES SHOWED A LARGE MAJORITY (80 PLUS %) SUPPORT COUNTY WIDE TAXATION. THE AGENCY AGREED TO ISSUE A RFP FOR A BROADER SCOPE OF WORK AFTER 3 ½ YEARS WITH HIGHLAND PLANNING. IN SUMMARY, MR. WEHRFRITZ REPORTED THAT DURING ONE-ON-ONE CONVERSATIONS WITH THE COUNTY ATTORNEY AND CLPRA BOARD CHAIRMAN HE FOUND OUT THAT THERE IS NO WRITTEN LEGAL OPINION SUPPORTING CLPRA’S “NEAR-LAKE” DISTRICT LIMIT AND ALSO “DISTRICT” CONCEPT PRECLUDES COUNTY-WIDE PROPERTY TAX LAKE FUNDING (DISTRICT CAN’T BE THE COUNTY), BUT THAT DOESN’T SEEM NECESSARILY SO.

IN CLOSING, MR. WEHRFRITZ NOTED THAT SUPERVISOR JOHNSON SIGNED THE MOU WITH NO-LITIGATION TERM CROSSED THROUGH.

**ALLIANCE MEMBERSHIP**

MOTION BY COUNCILMAN HAYES, SECOND BY COUNCILMAN SCHLEMMER: THAT THE TOWN OF ELLERY RENEW ITS MEMBERSHIP (\$2,000.00) IN THE ALLIANCE FOR 7/1/2021 THROUGH 6/30/2022.

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

**BOY SCOUT EAGLE PROJECT – UPDATE**

DAVID MARSHALL UPDATED THE TOWN BOARD ABOUT HIS EAGLE SCOUT PROJECT – INSTALLATION OF A VOLLEYBALL PIT AT THE TOWN PARK. THE PROJECT IS COMPLETE WITH THE EXCEPTION OF THE NETS BEING IN PLACE. THERE WAS TALK ABOUT A SIGN TO BE PLACED AT THE VOLLEY BALL SITE. THERE ARE STILL SEVERAL DETAILS TO BE WORKED OUT.

EXECUTIVE SESSION

MOTION BY COUNCILMAN SCHLEMMER, SECOND BY COUNCILMAN HAYES: THAT THE BOARD GO INTO EXECUTIVE SESSION AT 8:06 PM, TO DISCUSS UNION NEGOTIATIONS AND POSSIBLE LITIGATION.

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