

STATE OF NEW YORK)
COUNTY OF CHAUTAUQUA) SS AUGUST 12, 2021
TOWN OF ELLERY)

MINUTES OF THE TOWN BOARD MEETING HELD THURSDAY, AUGUST 12, 2021, AT THE ELLERY TOWN HALL, SUNNYSIDE AVENUE, BEMUS POINT, NY, COMMENCING AT 7:29 PM.

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

SUPERVISOR JOHNSON CALLED THE MEETING TO ORDER AT 7:29 PM. THE PLEDGE OF ALLEGIANCE WAS OBSERVED.

JULY 8, 2021 BOARD MEETING MINUTES

MOTION BY COUNCILMAN SCHLEMMER, SECOND BY COUNCILMAN ANDERSON: THAT THE MINUTES OF THE JULY 8, 2021 BOARD MEETING WERE PRESENTED FOR FILING.

MR. ANDERSON – AYE MR. SCHLEMMER – AYE
MR. HAYES – AYE MR. JOHNSON – AYE - MOTION CARRIED
MR. CRESANTI – AYE

PUBLIC

1. CINDY SWANSON, SHORE ACRES MOBILE HOME PARK – PRESENTED THE TOWN BOARD WITH A PETITION OF 641 SIGNATURES ASKING THE TOWN BOARD FOR HELP WITH THE RECENT FLOODING OF THE SHORE ACRES AREA DURING THE RECENT HEAVY RAINS. MRS. SWANSON ALSO PRESENTED A POSTERBOARD OF PICTURES TAKEN DURING THE RECENT FLOODING. MRS. SWANSON WAS SUPPORTED IN HER EFFORTS AT THE MEETING BY CHIP SWANSON, BARRY AND ANN HARRIS, LEE WOODWARD, MARK EHRENBERG, AND FRANK CAHILL.

THERE WAS A LOT OF DISCUSSION AND COUNCILMAN SCHLEMMER NOTED THAT THE WATERSHED ALLIANCE IS HEADING UP A BEMUS CREEK RENOVATION PROJECT AND THAT THERE’S MUCH WORK TO DO AND THEN OF COURSE THERE IS THE ISSUE OF THE COST WHICH IS HUGE.

IN ANSWER TO ONE OF THE RESIDENTS QUESTIONS, IT WAS NOTED THAT THE TOWN OF ELLERY HAS NO JURISDICTION OVER THE CREEKS AND THE LAKE. THE TOWN WILL MAKE AN

APPLICATION TO THE NYS DEC AND THEN THE WATERSHED ALLIANCE WILL BE TAKING OVER THE PROCESS. ALSO NOTED WAS THAT THE RESIDENTS MIGHT WANT TO CONTACT DAVE MCCOY AT THE COUNTY FOR MORE INFORMATION OR WITH ANY QUESTIONS.

AN AREA RESIDENT ALSO SAID THAT THE CANAL STINKS AND NEEDS CLEANING AGAIN. SUPERVISOR JOHNSON SAID HE WILL TALK WITH HIGHWAY SUPERINTENDENT HALLBERG.

- 2. DAN SEYMOUR, GREENHURST AVENUE – NOTED THAT DUTCH HOLLOW CREEK IS AGAIN IN NEED OF BANK STABILIZATION. HE ESTIMATES HE HAS LOST FIFTY FEET. HE ASKED IF THE TOWN COULD REQUEST A GRANT FOR SUCH A PROJECT.

THERE WAS SOME DISCUSSION AND IT WAS DECIDED THAT THE TOWN BOARD WILL DISCUSS THE MATTER.

- 3. DEBBIE MOORE, CHENEY DRIVE – AS A BOARD MEMBER OF THE WATERSHED CONSERVANCY – SAID THAT THE TOWN AND ITS RESIDENTS NEED TO LOOK AT LAND PRACTICES TO HELP ALLIVIATE SOME OF THE PROBLEMS OCCURING DURING HEAVY RAINS.
- 4. PETE SAMUELSON, JEFF CLARK, STEVE DARLING AND VANCE LUTCHN WERE PRESENT REPRESENTING THE HIGHWAY DEPARTMENT.
- 5. PETE SAMUELSON READ THE FOLLOWING LETTER:

The highway employee’s attendance at tonight’s board meeting is a show of anger and frustration. The highway employees believe the town board has failed to offer a fair wage and benefit package. Despite concessions offered by the employees, the wages and benefits offered by the board are unacceptable and offensive. As we head to mediation awaiting a third party opinion, the highway employees believe this administration under Supervisor Arden Johnson has treated the employees poorly and with lack of respect and dignity.

For the record the town’s position during negotiations.

- Wages. Zero percent for 2021
- NO to additional comp time for hours worked during a holiday
- No to the implementation of a night shift rate
- NO to the proposal for a reduction in employees’ contribution for health insurance
- NO to an additional personal day
- NO to an additional holiday

What has the Town said yes to?

- Yes to an increase to 45 days from 30 days but less than the 60 days asked by the employees to convert unused sick time to cash at retirement.
- Yes to a \$20.00 dollar per month payment for the use of employees cell phone for town business.
- Employees were seeking \$40.00 per month. Employees believe this would benefit the towns operations more than the value of their offer and do not see this as a valuable gain.

What has the town proposed taking away from the employees which we currently receive?

Reducing the Spousal Health Benefit at retirement by ten percent.

What has the town taken away from the employees while in active negotiation?

Letter to Cintas from Attorney Robinson cancelling all employee uniforms in January Of 2021.

Threat of a charge from Teamsters 264 to the Public Employees Relations Board for the town's cancellation of a benefit while in active negotiation.

Statement in the April Board minutes stating the town would reinstate uniforms even though the expense was not included in the 2021 budget.

Reinstatement of uniforms directed and documented to be at a reduced levels.

As of August 3, 2021 the employee uniforms have not been fully reinstated.

In our opinion this is not negotiating. This is the same tactic employed for approximately the last 12-15 years. We believe your compromise to two of our least meaningful items is insufficient and offensive. We also state there were several items which we did not bring to the table because past practice indicates you would have said no to those as well. The Highway employees believe that our requests have been reasonable and our compromises many. We also believe there are sufficient funds available to provide for your employees but you choose not to.

We look to all representatives on the town board tonight. Councilman Larry Anderson, Councilman Steven Hayes, Councilman John Cresanti, Deputy Supervisor Mark Schlemmer, and supervisor Arden Johnson and ask: Do we really deserve a zero percent pay raise. Would you accept or appreciate a zero percent pay raise. We already know the answer to that and the answer is no. You would not. We believe you would be offended as well. We believe there are members on this board who do not agree with the town's position on these negotiations. We urge you to make your voices heard and follow your conscience. We believe you know we deserve better treatment and a fair cost of living increase. Because of our decision to unionize we know others on this board are offended. We state for the record that this is your union. We believe we would not be here today had you listened to some of our requests. A request for transparency, open communication, and fair negotiation. The same items we ask for today. We have documentation going back years asking for these very items and have been ignored. So here we are. You found it easier to give a raise of three thousand seven hundred dollars to the town attorney to fight us, rather than talk to us. We pledge that until we come to a satisfactory agreement you will talk to us. We will be represented at all upcoming board meetings until a resolution is achieved. Again as we stated on May 13, 2021 you can choose going forward whether our differences are considered, negotiated fairly and attempt to resolve the differences that exist.

We urge you to take a vote tonight in a public forum and state for the record your position on the current negotiations and the position the town has taken. By doing so you can show accountability to the highway employees and the public for your position. We would like to remind you that you were elected to this board to have an independent voice, an independent view, and an independent vote on all the issues. Remember this is a democracy not a dictatorship. Show us it's not always a 5-0 vote because we believe it's not a 5-0 vote in favor of your offer. Again what we are proposing is not unreasonable. Put yourselves in our shoes. Consider the issues, speak your conscience, vote your conscience, and end this ridiculous position taken towards the employees. Thank you and good night.

Steve Darling, Todd Park, Ronald Crandall, Peter Samuelson, Jeff Clark Darren Kesby, Vance Lutgen.

SUPERVISOR JOHNSON THANKED THE HIGHWAY EMPLOYEES FOR COMING.

6. JENNA CLAUSON, DIRECTOR OF THE SUMMER YOUTH PROGRAM – PRESENTED A WRITTEN AND ORAL REPORT ON THE PROGRAM SUMMER ACTIVITIES.
7. CHERLY JOHNSON – ROUTE 430 – ASKED FOR AN UPDATE ON THE CONDEMNED PROPERTY OWNED BY PAT LUCARIELLO.

IT WAS NOTED THAT THERE HAS BEEN A DUMPSTER ON THE PROPERTY FOR REMOVAL OF JUNK AND CODE ENFORCEMENT OFFICER ROBERT SAMUELSON SAID HE WILL BE CHECK ON THE MATTER TOMORROW (AUGUST 13, 2021).

- 8. DEBBIE LANGEBARTEL, MAPLE SPRINGS – DISPLAYED A MAP OF A RIGHT-OF-WAY (LAKEVIEW AVENUE, MAPLE SHADE ALLOTMENT) RUNNING BETWEEN HER PROPERTY AND MIDWAY STATE PARK. AFTER A LOT OF RESEARCH, MRS. LANGEBARTEL SAID IT DOESN'T APPEAR THAT THE RIGHT-OF-WAY BELONGS TO THE TOWN AND SHE WOULD LIKE TO ACQUIRE IT.

THERE WAS BRIEF DISCUSSION AND A MOTION WAS MADE BY COUNCILMAN CRESANTI, SECONDED BY COUNCILMAN SCHLEMMER: THAT BASED ON TOWN RECORDS, THE TOWN OF ELLERY HAS NO INTEREST/OWNERSHIP OF LAKEVIEW AVENUE LOCATED IN THE MAPLE SHADE ALLOTMENT IN MAPLE SPRINGS.

MR. ANDERSON – AYE	MR. SCHLEMMER – AYE
MR. HAYES – AYE	MR. JOHNSON – AYE - MOTION CARRIED
MR. CRESANTI – AYE	

MR. ROBINSON WILL SEND MRS. LANGEBARTEL A LETTER SO STATING.

- 9. TIM LUTGEN – TOLD THE TOWN BOARD THAT THE FORMER LUCARIELLO TRAILER PARK IS 90% CLEANED UP AT THIS POINT. HE WOULD LIKE TO MOVE HIS TREE SERVICE OFFICES AND BUSINESS TO THIS SITE. THERE IS 77 ACRES WITH 500 FEET OF DEPTH IN THE B-2 ZONING DISTRICT.

THE BOARD SUGGESTED THAT MR. LUTGEN BRING A SKETCH AND PROPOSAL TO THE BOARD FOR THEIR REVIEW.

JULY REPORTS

TOWN CLERK, REBECCA HAINES, SUBMITTED HER JULY REPORT IN THE AMOUNT OF \$12,835.00. THE CHECK TO THE TOWN TOTALED \$11,503.84.

TOWN CLERK HAINES ASKED THE TOWN BOARD TO SET THE POLICY FOR MASKS AT THE TOWN HALL NOW THAT THE COVID TRANSMISSION RATE IN WESTERN NEW YORK AND CHAUTAUQUA COUNTY IS ON THE RISE.

AFTER SOME LIVELY DISCUSSION, A MOTION WAS MADE BY COUNCILMAN CRESANTI, SECOND BY COUNCILMAN ANDERSON: THAT MASKS ARE AGAIN REQUIRED TO BE WORN BY ANYONE ENTERING THE TOWN HALL.

MR. ANDERSON – AYE	MR. SCHLEMMER – NAYE
MR. HAYES – AYE	MR. JOHNSON – AYE - MOTION CARRIED
MR. CRESANTI – AYE	

THE TOWN BOARD RECEIVED THE JULY REPORTS FROM THE ZONING OFFICER, CODE ENFORCEMENT OFFICER, TOWN JUSTICES AND ASSESSOR.

CONFERENCE ATTENDANCE – ASSESSOR

MOTION BY COUNCILMAN ANDERSON, SECOND BY COUNCILMAN HAYES AND UNANIMOUSLY CARRIED: THAT TOWN ASSESSOR, ANNE GOLLEY IS AUTHORIZED TO ATTEND THE NEW YORK

STATE ASSESSORS' ASSOCIATION SEMINAR ON ASSESSMENT ADMINISTRATION AT NIAGARA FALLS, NY, FROM OCTOBER 3RD THROUGH OCTOBER 6TH, EXPENSES PAID.

MISCELLANEOUS

SUPERVISOR JOHNSON NOTED THAT THE TOWN HAS RECEIVED THE FIRST OF TWO CHECKS FROM THE FEDERAL/STATE GOVERNMENT FOR COVID RELIEF. THE CHECK RECEIVED TOTALED \$202,503.00

MR. JOHNSON ALSO NOTED THAT HE HAS SIGNED AND RETURNED THE CONTRACTS FOR SNOW REMOVAL AND THE SHERIFF DEPUTY ATTENDING COURT SESSIONS.

BUDGET TRANSFERS/MODIFICATIONS

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

\$966 FROM A1990.4 – CONTINGENT TO A3510.4 – ANIMAL CONTROL - CONTRACTUAL;

WE RESOLVE TO INCREASE THE GENERAL FUND OUTSIDE VILLAGE 2021 EXPENDITURE BUDGET BY \$30,000 DUE TO MONIES RECEIVED FROM THE CHAUTAUQUA LAKE & WATERSHED. THIS WILL INCREASE ACCOUNTS B2705 – GIFTS & DONATIONS AND B7110.43 – LAKE SUPPORT – CONTRACTUAL.

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

MR. SCHLEMMER – AYE
MR. JOHNSON – AYE - MOTION CARRIED

VOUCHERS

MOTION BY COUNCILMAN CRESANTI, SECOND BY COUNCILMAN ANDERSON: THAT VOUCHERS #'S 333 THROUGH 406, WARRANT #8, IN THE AMOUNT OF \$173,949.42, BE PAID AS AUDITED.

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

MR. SCHLEMMER – AYE
MR. JOHNSON – AYE

ATTORNEY'S REPORT

MR. ROBINSON NOTED THAT HE HAS BEEN BUSY WITH HIGHWAY UNION NEGOTIATIONS AND IT LOOKS AS IF FURTHER DISCUSSION WILL BE WITH A MEDIATOR.

TAD WRIGHT, ATTORNEY FOR SOME PROPERTY BUYERS IN ORIENTAL CONTACTED HIM ABOUT BUYING THE 10 FOOT RIGHT-OF-WAY NEXT TO THEIR PROPERTY AT 4931 MAIN STREET IF THEY DONATED \$1000.00 TO THE TOWN.

THE TOWN OF ELLERY DOES NOT OWN ANY OF THE RIGHTS-OF-WAY IN ORIENTAL PARK AND THEREFORE CANNOT SELL ANY PROPERTY. THE RIGHTS-OF-WAY ARE OWNED BY ORIENTAL PARK RESIDENTS AS TENANTS IN COMMON AS STATED IN THEIR DEEDS.

MR. ROBINSON NOTED THAT THE TOWN NEEDS TO ADDRESS THE CANNABIS LAW.

SET DATE – PUBLIC HEARING – LOCAL LAW #2 – CANNABIS

MOTION BY COUNCILMAN SCHLEMMER, SECOND BY COUNCILMAN CRESANTI: THAT THE TOWN BOARD CONSIDER LOCAL LAW #2 OF 2021 TO OPT OUT OF ALLOWING CANNABIS DISPENSARIES AND ON-SITE CONSUMPTION AS AUTHORIZED UNDER CANNABIS LAW ARTICLE 4, AT THE SEPTEMBER 9TH MEETING, AT 7:45 PM.

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

TOWN HALL – DRIVEWAY

SUPERVISOR JOHNSON NOTED THAT THE BOARD MEMBERS HAD ALL RECEIVED THE RECENT PHOTO OF THE TOWN HALL DRIVEWAY SHOWING WHERE A WHITE TRUCK IS PARKED SO THAT THERE IS ONLY ONE NARROW LANE FOR VEHICLES TO ENTER AND/OR EXIT. IT'S TIME TO CONSIDER PUTTING IN A SEPARATE DRIVEWAY OWNED EXCLUSIVELY BY THE TOWN. SUPERVISOR JOHNSON ASKED COUNCILMAN CRESANTI TO HANDLE HIRING A SURVEYOR TO HAVE THE NECESSARY SURVEY WORK DONE.

REPAINTING OF TOWN HALL SIGN AND NEW ENTRY SIGNS

MR. JOHNSON SAID HE HAS TALKED WITH A REPRESENTATIVE OF CHAUTAUQUA SIGN COMPANY ABOUT A REPAINTING THE ELLERY TOWN HALL SIGN AND IT CAN BE DONE FOR ABOUT \$1,575.00. THE TOWN COULD ALSO USE NEW ENTRY SIGNS (FLUVANNA AVENUE, ROUTE 430 OFF THE BRIDGE AND ELLERY CENTRALIA ROAD) THE EACH 3 X 5 SIGN WOULD COST \$520.00. HE SAID HE WILL TALK WITH GREG HALLBERG ABOUT THE MATTER.

AUTHORIZE JCAP GRANT APPLICATION

MOTION BY COUNCILMAN SCHLEMMER, SECOND BY COUNCILMAN HAYES: THAT THE TOWN OF ELLERY AUTHORIZES THE ELLERY JUSTICE COURT TO APPLY FOR A JCAP GRANT IN THE 2020-21 GRANT CYCLE UP TO \$30,000.00.

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

HIGHWAY SUPERINTENDENT'S REPORT

TOWN CLERK HAINES REPORTED ON BEHALF OF HIGHWAY SUPERINTENDENT HALLBERG THAT THE COUNTY HAS FIXED THE LOWER BRIDGE ON WHITESIDE AND ESTIMATES THAT THE

REPAIRS WILL LAST FOR ANOTHER 10-15 YEARS; THE HIGHWAY DEPARTMENT IS BUSY WITH THE NORMAL ROAD WORK AND ALL THE NEW SIGNS THAT WERE ORDERED ARE BEING PUT UP.

EXECUTIVE SESSION

MOTION BY COUNCILMAN SCHLEMMER, SECOND BY COUNCILMAN CRESANTI: THAT THE BOARD GO INTO EXECUTIVE SESSION AT 9:13 PM, TO DISCUSS UNION NEGOTIATIONS.

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

MR. SCHLEMMER – AYE
MR. JOHNSON – AYE

THE FOLLOWING WAS REORTED TO THE TOWN CLERK:

LEAVE EXECUTIVE SESSION AND ADJOURN

MOTION BY COUNCILMAN ANDERSON, SECOND BY COUNCILMAN HAYES AND UNANIMOUSLY CARRIED THAT THE BOARD LEAVE EXECUTIVE SESSION AND ADJOURN AT 9:25 PM.

SUBMITTED:



REBECCA H. HAINES, RMC/MMC
ELLERY TOWN CLERK
/RHH