

STATE OF NEW YORK)
COUNTY OF CHAUTAUQUA) SS SEPTEMBER 9, 2021
TOWN OF ELLERY)

MINUTES OF THE TOWN BOARD MEETING HELD THURSDAY, SEPTEMBER 9, 2021, AT THE ELLERY TOWN HALL, SUNNYSIDE AVENUE, BEMUS POINT, NY, COMMENCING AT 7:30 PM.

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

ABSENT: ARDEN E. JOHNSON, SUPERVISOR
LAWRENCE A. ANDERSON, COUNCILMAN

MINUTES TAKEN BY: REBECCA H. HAINES, TOWN CLERK

OTHERS PRESENT: ANNE GOLLEY, ASSESSOR/ZONING OFFICER
NEIL M. ROBINSON, TOWN ATTORNEY
GREG HALLBERG, HIGHWAY SUPERINTENDENT

DEPUTY SUPERVISOR SCHLEMMER CALLED THE MEETING TO ORDER AT 7:30 PM. THE PLEDGE OF ALLEGIANCE WAS OBSERVED. ALSO OBSERVED WAS A MOMENT OF SILENCE IN MEMORY OF LONG TIME COUNCILMAN/DEPUTY SUPERVISOR, G. CRAIG MILLER. MR. MILLER, WHO PASSED AWAY RECENTLY, SERVED ON THE ELLERY TOWN BOARD FOR 48 CONSECUTIVE YEARS.

AUGUST 12, 2021 BOARD MEETING MINUTES

MOTION BY COUNCILMAN CRESANTI, SECOND BY COUNCILMAN HAYES: THAT THE MINUTES OF THE AUGUST 12, 2021 BOARD MEETING WERE PRESENTED FOR FILING.

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

AUGUST REPORTS

TOWN CLERK, REBECCA HAINES, SUBMITTED HER AUGUST REPORT IN THE AMOUNT OF \$10,335.00. THE CHECK TO THE TOWN TOTALED \$8,177.50. MS. HAINES ALSO NOTED THAT SHE HAS BEEN RECEIVING MEMORIALS FOR THE TOWN PARK IN MEMORY OF G. CRAIG MILLER. SO FAR THERE HAVE BEEN 27 RECEIVED AND ACKNOWLEDGED.

THE TOWN BOARD ALSO RECEIVED THE AUGUST REPORTS FROM THE ZONING OFFICER, CODE ENFORCEMENT OFFICER, TOWN JUSTICESASSESSOR AND SUPERVISOR.

PUBLIC

- 1. WILL SCHLEMMER, LAKESIDE DRIVE – ADDRESSED THE TOWN BOARD AND DETAILED HIS PROGRESS ON THE EAGLE SCOUT PROJECT HE HAS DISIGNED– BEMUS POINT CEMETERY TREE PLANTING.

HE IS READY TO HAVE HIS CREW PLANT THE TREES THIS UPCOMING WEEKEND. HE HAS RAISED ALL THE MONEY FOR THE PROJECT BY DONATIONS.

MOTION BY COUNCILMAN CRESANTI, SECOND BY COUNCILMAN HAYES: THAT THE TOWN BOARD ACCEPT MR. WILL SCHLEMMER’S BLUEPRINT FOR THE PLANTING OF THE TREES AT THE BEMUS POINT CEMETERY.

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

7:45 PM – PUBLIC HEARING – LOCAL LAW # 2 OF 2021

THE PUBLIC HEARING WAS OPENED AT 7:45 PM. THE PURPOSE OF THIS PUBLIC HEARING IS TO CONSIDER THE ADVISABILITY OF ADOPTING LOCAL LAW #2 FOR THE YEAR 2021 WHEREIN THE TOWN OF ELLERY WOULD OPT OUT OF ALLOWING CANNABIS RETAIL DISPENSARIES AND ON-SITE CONSUMPTION SITES AS AUTHORIZED UNDER NEW YORK’S CANABIS LAW ARTICLE 4.

PRESENT AND SPEAKING IN FAVOR OF THE LOCAL LAW WERE LIZ FLOWER AND TIM LUTGEN.

THE HEARING WAS CLOSED.

MOTION BY COUNCILMAN CRESANTI, SECOND BY COUNCILMAN HAYES: THAT LOCAL LAW # 2 OF 2021 BE ADOPTED SUBJECT TO PERMISSIVE REFERENDUM.

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

TIM LUTGEN THEN GAVE SOME ADDITIONAL BACKGROUND ABOUT HIS PPROPOSED BUSINESS RELOCATION FROM LEWIS ROAD TO ROUTE 430. MR. LUTGEN WAS TOLD THAT HE WILL NEED A COMPLETED APPLICATION, A SITE PLAN AND SKETCH AND A SHORT ENVIRONMENTAL ASSESSMENT FORM. HE WAS DIRECTED TO TALK WITH ZONING OFFICER GOLLEY ABOUT THE PARTICULARS OF HIS PROJECT.

BUDGET TRANSFERS/MODIFICATIONS

MOTION BY COUNCILMAN HAYES, SECONDED BY COUNCILMAN CRESANTI: THAT THE FOLLOWING BUDGET TRANSFERS AND MODIFICATION BE APPROVED AS LISTED BELOW - INCLUDES 2 CHANGES:

\$9 FROM A1990.4 – CONTINGENT TO A1220.4 – SUPERVISOR, CONTRACTUAL

\$679 FROM A 1990.4 CONTINGENT TO A1910.4 – SPECIAL ITEMS – UNALLOCATED INSURANCE

1,695 FROM A 1990.4 CONTINGENT TO B 7110.43 – LAKE SUPPORT CONTRACTUAL

\$254 FROM, A1990/4 – CONTINGENT TO A1110.4 – JUSTICES, CONTRACTUAL

\$20 FROM A1990.4 – CONTINGENT TO a3510.4 – ANIMAL CONTROL – CONTRACTUAL;

BUDGET MODIFICATION: WE RESOLVE TO INCREASE THE YOUTH RECREATION FUND 2021 EXPENDITURE BUDGET BY \$619. THIS WILL INCREASE ACCOUNT SY7310.4 – YOUTH PROGRAMS – CONTRACTUAL AND DECREASE APPROPRIATED FUND BALANCE.

\$84 FROM DB9040.8 – EMPLOYEE BENEFITS – WORKER’S COMP TO DB9045.8 – EMPLOYEE BENEFITS – LIFE INSURANCE

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

VOUCHERS

MOTION BY COUNCILMAN HAYES, SECOND BY COUNCILMAN CRESANTI: THAT VOUCHERS #'S 407THROUGH 453, WARRANT #9, IN THE AMOUNT OF \$315,276.16, BE PAID AS AUDITED.

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

LEGISLATOR’S REPORT

MR. CHAGNON REPORTED THAT THE LEGISLATURE TOOK ACTION TO CANCEL FUTURE UNCOLLECTIBLE TAX LIENS ON THE KEYWELL PROPERTY IN FREWSBURG. THE PROPERTY OWNER IS IN BANKRUPTCY SO THERE IS NO PRACTICAL MEANS OF COLLECTING DELINQUENT PROPERTY TAXES. THE PROPERTY HAS SERIOUS ENVIRONMENTAL ISSUES MAKING IT IMPRACTICAL FOR THE COUNTY TO FORECLOSE AND THE LOCAL ASSESSMENT HAS NOT BEEN REDUCED. THEREFORE, THE PROPERTY WILL NOW BE EXEMPT FROM TAXATION SO THE COUNTY WILL NOT HAVE TO GUARANTEE THE UNCOLLECTIBLE TOWN AND SCHOOL TAXES. AND IF THE PROPERTY IS SOLD IN THE FUTURE, IT CAN BE RESTORED TO FULLY TAXABLE STATUS AND INCLUDE THE CURRENT DELINQUENT TAXES.

THE 2021 BUDGET FOR PRESCHOOL SPECIAL EDUCATION TRANSPORTATION WAS INCREASED BY \$375,000 DUE TO INCREASED COSTS RELATED TO BOMPLIANCE WITH COVID-19 DISTANCING AND SANITIZING REQUIREMENTS. THIS PROGRAM IS ADMINISTERED BY THE NYS EDUCATION DEPARTMENT, AND THEY SET THE RULES AND CONTRACT WITH THE SERVICE PROVIDERS. ALL THE COUNTY DOES IS PAY 40% OF THE COSTS.

THE COUNTY AGREED TO SETTLE THE LEGAL ACTION BROUGHT ON BEHALF OF NEW YORK STATE AND ITS LOCAL SUBDIVISIONS AGAINST JOHNSON & JOHNSON, JANSSEN PHARMACEUTICALS, ORTHO-MCNEIL-JANSSEN PHARMACEUTICALS AND JANSSEN PHARMACEUTICA REGARDING THE OPIOID ADDICTION CRISIS. THE COUNTY’S SHARE WILL BE BETWEEN APPROXIMATELY \$426K AND APPROXIMATELY \$996K OVER TEN (10) YEARS, AND THE COMPANIES WILL AGREE TO CEASE THE MANUFACTURE, SALE, AND PROMOTION OF OPIOIDS AND OPIOID PRODUCTS IN THE STATE OF NEW YORK FOR TEN YEARS. THE AGREEMENT

PROVIDES THAT APPROXIMATELY 21% OF THE COUNTY'S FINAL SETTLEMENT PROCEEDS WILL BE UNRESTRICTED AS TO THEIR USE, AND APPROXIMATELY 79% OF THE COUNTY'S FINAL SETTLEMENT PROCEEDS MAY ONLY BE USED FOR APPROVED USES, WHICH INCLUDE METHODS OF PREVENTION AND TREATMENT OF OPIOID USE DISORDER.

HIGHWAY SUPERINTENDENT'S REPORT

HIGHWAY SUPERINTENDENT HALLBERG REPORTED THAT THE HIGHWAY CREW HAS FINISHED OILING FOR THE SEASON AND CONTINUES NORMAL SEASONAL WORK SUCH AS MOWING AND DITCHING. THE CANAL AT SHORE ACRES WILL BE CLEANED (TOMORROW) USING THE MOBI TRAC AND THE TOWN WILL HAUL AWAY THE DEBRIS.

PURCHASE OF BOOM MOWER AND TRACTOR

MR. HALLBERG PRESENTED WRITTEN QUOTES FOR THE POSSIBLE PURCHASE OF A NEW BOOM MOWER AND TRACTOR. MR. HALLBERG NOTED THAT THE ORDER FOR THE EQUIPMENT MUST BE PLACED NOW TO ENSURE FEBRUARY DELIVERY. THERE WAS DISCUSSION ABOUT FINANCING OPTIONS AND IT WAS AGREED THAT THE BOARD WILL DISCUSS IT FURTHER.

MOTION BY COUNCILMAN CRESANTI, SECOND BY COUNCILMAN HAYES: THAT HIGHWAY SUPERINTENDENT HALLBERG IS AUTHORIZED TO ORDER THE BOOM MOWER AND TRACTOR AS PER THE WRITTEN QUOTES HE PRESENTED.

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

TOWN HALL DRIVEWAY – SUPVEY

THERE WAS DISCUSSION ABOUT THE POSSIBLE RELOCATION OF THE DRIVE WAY INTO THE TOWN HALL. IT WAS AGAIN DECIDED THAT COUNCILMAN CRESANTI WILL CONTACT RODGERS SURVEYING AND HAVE THE AREA IN QUESTION SURVEYED SO THAT A DECISION CAN BE MADE WITH THE PROPER INFORMATION.

ATTORNEY'S REPORT

MR. ROBINSON SAID THAT A MEDIATOR WILL BE MEETING WITH THE TOWN AND THE HIGHWAY DEPARTMENT TO DISCUSS UNION DEMANDS. HE ALSO SAID HE HAS BEEN IN COURT WITH ZONING VIOLATION MATTERS. HE WILL NEED A SHORT EXECUTIVE SESSION TO DISCUSS SOME ONGOING LITIGATION.

SET DATES – PUBLIC HEARINGS – FIRE PROTECTION DISTRICTS – 2022 BUDGET

MOTION BY COUNCILMAN HAYES, SECOND BY COUNCILMAN SCHLEMMER: THAT THE TOWN BOARD HOLD THE FOLLOWING PUBLIC HEARINGS THURSDAY OCTOBER 14, 2021:

7:45 PM – DEWITTVILLE FIRE PROTECTION DISTRICT
7:50 PM – SINCLAIRVILLE FIRE PROTECTION DISTRICT
7:55 PM – BEMUS POINT FIRE PROTECTION DISTRICT

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

THERE WAS A LITTLE DISCUSSION ABOUT THE 2021 DEWITTVILLE FIRE PROTECTION MONIES THAT HAD NOT BEEN CLAIMED THIS YEAR. THE MONEY WILL BE HELD IN RESERVE.

MISCELLANEOUS

COUNCILMAN HAYES NOTED THAT THE POST-JOURNAL COVERED THE STORY ABOUT SOME OF THE RECENT WORK DONE ON COLBY CREEK. HE THANKED MR. HALLBERG AND THE HIGHWAY DEPARTMENT FOR THEIR EFFORTS.

COUNCILMAN SCHLEMMER NOTED THAT THERE IS A FOLLOW UP MEETING WITH THE ALLIANCE ABOUT PROGRESS IN PUTTING TOGETHER THE PLAN TO DREDGE BEMUS CREEK. DAVE MCCOY FROM THE COUNTY SAID THERE IS A PRELIMINARY PLAN IN PLACE AND THERE WILL BE MORE MEETINGS. THE COUNTY IS TO PURCHASE A LONG ARM HOE TO BE USED IN THESE SITUATIONS.

IT WAS ALSO NOTED THAT THE CLP WILL BE APPLYING FOR MORE HERBICIDE GRANTS FOR THE 2022 SEASON.

EXECUTIVE SESSION

MOTION BY COUNCILMAN HAYES, SECOND BY COUNCILMAN CRESANTI AND UNANIMOUSLY CARRIED: THAT THE BOARD GO INTO EXECUTIVE SESSION AT 8:46 PM, TO DISCUSS ZONING LITIGATION.

REGULAR SESSION

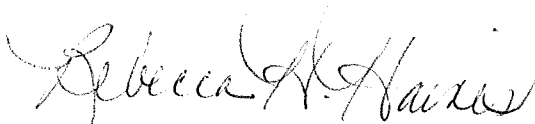
MOTION BY COUNCILMAN CRESANTI, SECOND BY COUNCILMAN HAYES AND UNANIMOUSLY CARRIED: THAT THE BOARD RETURN TO REGULAR SESSION AT 8:49 PM.

MOTION BY COUNCILMAN CRESANTI, SECOND BY COUNCILMAN HAYES AND UNANIMOUSLY CARRIED: THAT TOWN ATTORNEY ROBINSON IS AUTHORIZED TO SETTLE IN COURT WITH THE HENDERSONS (WARNER BAY) ALLOWING THEM TO ERECT A DOG ENCLOSURE ON THEIR PROPERTY.

ADJOURNMENT

MOTION BY COUNCILMAN CRESANTI, SECOND BY COUNCILMAN HAYES AND UNANIMOUSLY CARRIED: THAT THE TOWN BOARD MEETING BE ADJOURNED AT 8:51 PM.

SUBMITTED:



REBECCA H. HAINES, MMC
ELLERY TOWN CLERK

/RHH