

May 9, 2017

Regular Meeting

Minutes of a Regular Meeting of the Town Board of the Town of Southport held at the Southport Town Hall, 1139 Pennsylvania Avenue on May 9, 2017.

Members Present: Supervisor David Sheen, Council Members Glenn Gunderman, Daniel Hurley, Joseph Roman, Kathleen Szerszen

Others Present: Attorney Kimberlee Balok-Middaugh, Code Enforcement Officer Peter Rocchi, Highway Superintendent David Bachman, Cemetery Commission Secretary/Planning Board Member Jacqueline French, Town Clerk Carolyn Renko, Deputy Town Clerk Marianne Schrom

The meeting was called to order by Supervisor David Sheen at 7:00 p.m., followed by the Pledge of Allegiance to the Flag of the United States of America.

Moment of Silence – Kathleen Szerszen

Monthly reports were received as follows:

Town Clerk Carolyn A. Renko

Town Clerk & Dog License Fees	\$ 1,844.06
Fitzsimmons Lot Sales	\$ 550.00
Funds Turned to State & County Agencies	<u>\$ 1,827.44</u>
	\$ 4,221.50

Code Enforcement Office

Fees Collected:	Building Permit Fees	\$ 1,274.00
	Building Permit Values	\$ 140,000.00
	Operating Permit Fees	\$ 1,200.00
	Site Plan Fees	\$ 150.00
	Variance Fees	\$ 75.00

City of Elmira Animal Control
Justice Office
Recreation/Aging/Youth Services
Residential Deputy

Council Member Gunderman made a motion, Council Member Szerszen seconded to accept the monthly reports as filed.

Council Member Gunderman made a motion, Council Member Roman seconded to accept the minutes from April 11, 2017 Regular Meeting.

Under Correspondence, Supervisor Sheen read a letter from Reverend Horace Stoddard to Dave Ellis, thanking him for all his help and the use of Draxler Park for the Annual Easter Dawn Pageant that was held on April 16, 2017.

Under Taxpayer's Comments, agenda and discussion items only, Charles Collins from 436 Kinner Hill Road commented on Agenda item #7, Setting Public Hearing for Local Law No. 3 of 2017, to Override Tax Levy Limit for taxable 2017 year established in the General Municipal Law.

RESOLUTION NO. 86-2017

APPROVING ABSTRACT OF GENERAL FUND CLAIMS

Resolution by: Szerszen
Seconded by: Hurley

RESOLVED, that the Abstract of General Fund Claims submitted by the Town Clerk for the month of May 2017, No. 942 through No. 1004, not to exceed \$125,673.04, has been audited and approved for payment by this Town Board.

AYES: Gunderman, Hurley, Roman, Szerszen, Sheen
NOES: None
CARRIED.

RESOLUTION NO. 87-2017

APPROVING ABSTRACT OF HIGHWAY FUND CLAIMS

Resolution by: Gunderman
Seconded by: Roman

RESOLVED, that the Abstract of Highway Fund Claims submitted by the Town Clerk for the month of May 2017, No. 73 through No. 89, not to exceed \$47,262.87, has been audited and approved for payment by this Town Board.

AYES: Gunderman, Hurley, Roman, Szerszen, Sheen
NOES: None
CARRIED.

RESOLUTION NO. 88-2017

APPROVING ABSTRACT OF LIGHT FUND CLAIM

Resolution by: Gunderman
Seconded by: Szerszen

RESOLVED, that the Abstract of Light Fund Claim submitted by the Town Clerk for the month of May 2017, No. 16, not to exceed \$7,995.14, has been audited and approved for payment by this Town Board.

AYES: Gunderman, Hurley, Roman, Szerszen, Sheen
NOES: None
CARRIED.

RESOLUTION NO. 89-2017

IMPLEMENTING A TRASH VOUCHER DISPOSAL PROGRAM FOR THE TOWN OF SOUTHPORT FOR THE YEAR 2017 IN CONJUNCTION WITH CHEMUNG COUNTY

Resolution by: Roman
Seconded by: Gunderman

WHEREAS, the Town of Southport in previous years have provided Town residents for the disposal of trash and/or refuse and would like to continue that program for the year 2017.

WHEREAS, the County of Chemung has provided the Town of Southport with 200 trash disposal vouchers to dispense to their residents on a first come, first serve basis.

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Southport, in regular session duly convened, does hereby authorize the Town Supervisor to implement a Trash Voucher Disposal Program for 2017 that would allow residents of the Town to obtain vouchers from the Town Clerk's Office for the disposal of trash at the Chemung County Milling Station of up to 1,000 pounds per household free of charge, with the type of items to be disposed of to be determined in accordance with Chemung County. The Town residents who obtain a voucher would be responsible for the cost of disposing of any trash in excess of the 1,000 pounds permitted by the vouchers or items that carry additional charges for disposal.

AYES: Gunderman, Hurley, Roman, Szerszen, Sheen
NOES: None
CARRIED.

7:15 P.M. – PUBLIC HEARING – for the purpose of hearing any and all public comment in connection with the proposed order directing repair or removal of an unsafe building located at 1159 Sherman Avenue, Tax Map Identification Number 109.08-1-51, Town of Southport, County of Chemung, State of New York, pursuant to the provisions of Chapter 234 of the Municipal Code of the Town of Southport.

Attorney Middaugh read the legal notice that appeared in the Star Gazette and opened the Public Hearing at 7:15 p.m. for public comment.

Mary Davenport from 1157 Sherman Avenue, stated the property is in terrible condition and has mice and other rodents that are coming over to her house from there. She asked if the property could be exterminated before it is torn down so that all of the rodents don't come to her or her other neighbor's property.

Mark Watts from 6 Groff Road, Horseheads owns property at 268 Curtis Street and states he is familiar with 1159 Sherman Avenue and it's in bad shape and feels it is unsafe.

Karen Clark from 1149 Sherman Avenue stated she has been at Mary Davenport's house and has seen the mice coming from 1159 Sherman Avenue and feels the property is unsafe and needs to be torn down.

After no one else wished to speak, the public portion of the Public Hearing was closed at 7:18 p.m.

Code Enforcement Officer Peter Rocchi stated that provisions could be put in place for pest control if the Town Board desired but at this point an asbestos survey needs to be done first and then it will be determined after the results are back who will actually demolish the building, either the Town Highway Department or a private contractor.

Supervisor Sheen stated that an attempt will be made to take care of any pest problems before demolition.

Council Members Hurley and Roman stated they feel Mr. Rocchi should inspect the property first to determine if there indeed is a pest problem.

Council Member Gunderman asked the residents who live near the property at 1159 Sherman Avenue if they noticed any stray cats/dogs around and if so the Town may need to contact Animal Control to assess the situation.

Mr. Rocchi also stated that he spoke with the home owner and she has no intention of repairing the property.

RESOLUTION NO. 90-2017

ORDERING DEMOLITION AND REMOVAL OF A DANGEROUS AND UNSAFE BUILDING LOCATED AT 1159 SHERMAN AVENUE AND TO PROCEED WITH AN ASBESTOS EVALUATION

Resolution by: Roman
Seconded by: Gunderman

WHEREAS, the Building Inspector of the Town of Southport has heretofore filed with the Town Clerk of the Town of Southport a report containing his opinion regarding the dangerous or unsafe condition to the public of certain property owned by Norma L. Heath, located at 1159 Sherman Avenue, Elmira, New York, designated Tax Map Parcel Number 109.08-1-51, and

WHEREAS, there has heretofore been personally served upon Norma L. Heath a notice setting forth the particulars in which the building is unsafe or dangerous, and

WHEREAS, the Town Board upon notice to the aforementioned owner, conducted a hearing on May 9, 2017 at 7:15 p.m., at which time the public was given an opportunity to be heard,

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Southport does hereby order the demolition and removal of a building located at 1159 Sherman Avenue and owned by Norma L. Heath, Tax Map Parcel Number 109.08-1-51, as such building constitutes a dangerous and unsafe condition for the public of the Town of Southport, and be it further

RESOLVED, that the Town Code Enforcement Officer is authorized to conduct an asbestos evaluation for the property located at 1159 Sherman Avenue.

RESOLVED, that such repairs or demolition shall commence within thirty days of the date of the service of the aforementioned owners and shall be completed within sixty days thereafter.

AYES: Gunderman, Hurley, Roman, Szerszen, Sheen
NOES: None
CARRIED.

RESOLUTION NO. 91-2017

MEDICAL INSURANCE COVERAGE BENEFITS FOR TOWN RETIREES OVER THE AGE OF 65

Resolution by: Roman
Seconded by: Szerszen

WHEREAS, due to the perpetual escalation of medical insurance expenses, the Town continuously reviews various cost saving options in an effort to contain medical cost, and

WHEREAS, the average increase in cost for the previous three years for the Medicare Advantage plan for the Town of Southport for post age 65 retirees has been 20%, and

WHEREAS, the monthly 2017 premium for the Medicare Advantage plan for post age 65 retirees charged by the carrier, Excellus BCBS in \$387.40. The Town pays 85% of the cost and the retiree pays 15% of the premium, the figures are listed below:

	Premium from Carrier		Town of Southport		Retiree Cost	
	Monthly	Annual	Monthly	Annual	Monthly	Annual
Retiree	\$387.40	\$4,648.80	\$329.29	\$3,951.48	\$58.11	\$697.32
Ret. & Sp.	\$774.80	\$9,297.60	\$658.58	\$7,902.96	\$116.22	\$1,394.64

- Cost for retiree & spouse is based on the spouse being over age 65 also.

WHEREAS, in an effort to contain the cost of medical insurance, the Town of Southport will be adjusting the cost sharing between the Town and the retirees over the age of 65 years, and

NOW THEREFORE BE IT RESOLVED, that the Town of Southport will establish a fixed monthly payment cap on the Town’s contribution for medical insurance covering the Town of Southport retirees over the age of 65 years. That amount will be Four Hundred and Seventy-Five Dollars (\$475.00) per month or Five Thousand Seven Hundred Dollars (\$5,700.00) annually per retiree. If a spouse is over age 65 years and eligible for coverage, the amounts for the retiree and the retiree’s spouse will be Nine Hundred Fifty Dollars (\$950.00) per month or Eleven Thousand Four Hundred Dollars (\$11,400.00) annually, and

BE IT FURTHER RESOLVED, that this cap will become effective at the point in time the monthly premiums equal the amount of the cap on or after January 1, 2018, and

BE IT FURTHER RESOLVED, that this cost sharing cap will be applied to all current and future retirees at the age of 65 years, and

BE IT FURTHER RESOLVED, for the retirees who are 65 years of age or older and currently qualify and receive the Health Reimbursement Account benefit, those said retirees will continue to receive the Health Reimbursement Account benefit until December 31, 2019, and

BE IT FURTHER RESOLVED, that the Town Board will review this cost sharing arrangement on an annual basis.

AYES: Gunderman, Hurley, Roman, Szerszen, Sheen
 NOES: None
 CARRIED.

RESOLUTION NO. 92-2017

LOCAL LAW NO. 2 OF 2017

A TEMPORARY 12-MONTH MORATORIUM ON DEVELOPMENT ON SOLAR AND WIND ENERGY DEVELOPMENT WITHIN THE TOWN OF SOUTHPORT

Resolution by: Roman
Seconded by: Szerszen

NOW THEREFORE BE IT RESOLVED, that said proposed Local Law No. 2 of 2017 for the Town of Southport to provide a temporary 12-month moratorium for the development of any solar energy systems within the Town of Southport, is hereby adopted and enacted, to wit:

Section 1. Title

This local law shall be known as “Local Law No. 2 of the Year 2017, A Temporary 12-month Moratorium on Development on Solar and Wind Energy Development within the Town of Southport.”

Section 2. Legislative Intent

A. It is the intent of this local law to impose a 12-month moratorium for any commercial development or installation of solar or wind energy farms as defined herein within the Town of Southport. The Town imposes a temporary 12-month moratorium on the issuance of building permits, special use permits, variances, site plan approvals, or any related review pursuant to a request for such solar or energy development within the Town of Southport.

B. The purpose of this moratorium is to allow the Town of Southport to review its current zoning laws and comprehensive plan related to development for solar and wind energy farm systems.

C. In recent years, installation of solar and wind energy farms on properties has become more popular due to tax incentives and provider options. The Town recognizes the importance of the use of this alternate clean type of energy and its potential to provide another source of energy use for residents. The Town seeks to preserve and protect the aesthetic and natural resources of the Town and property values while understanding the impact this type of development will have on land use for the overall benefit of the Town.

D. During the period for this moratorium, the Town Board intends to suspend land use regulations in the Town of Southport which conflict with the effect and intent of this local law.

E. The Town Board finds pursuant to 6NYCRR 617.5 (c) (30) that the adoption of a moratorium of land development or construction is a Type II action under the New York State Environmental Quality Review Act (“SEQR”) which has been determined to not have a significant impact on the environment.

Section 3. Definitions

Commercial Solar and Wind Energy Development. Any development which includes solar or wind energy equipment that would be reasonably expected to generate more than one hundred twenty percent (120%) in total of the normal energy requirements of the improvements located on the parcel on which the equipment is located.

Section 4. Scope of Controls

For a period of 12 months from the effective date of this Local Law, the Town Board, Planning Board, Zoning Board of Appeals, and the Code (Zoning) Enforcement Officer shall not permit, accept, process, interpret, deliberate upon or approve any application for the installation or development of Commercial Solar or Wind Energy Development, as defined herein, except as set forth in Section 5 of this Local Law.

Section 5. Relief from Provisions of this Local Law

Should any owner of property affected by this local law suffer any unnecessary hardship and seek relief from this moratorium to obtain a permit for activity otherwise prohibited under this moratorium, such owner shall make application to the Town Board. Upon submission of written application to the Zoning (Code) Officer by the property owner seeking a waiver from this moratorium, the Town Board with thirty (30) days of receipt of said application shall schedule a public hearing on said application upon five (5) days written notice in the official newspaper of the Town. The Town Board, within fifteen (15) days of the close of the public hearing, shall render its decision either granting or denying the application for variation from the strict requirements of this moratorium. If the Town Board determines that a property owner shall suffer an unnecessary hardship if this moratorium is strictly applied to a particular property, then the Town Board shall waive the application of this moratorium to the minimum extent necessary to provide the property owner relief from the strict compliance with this moratorium.

It shall be within the discretion of the Town Board to grant, in whole or in part, or deny, the application for such relief from terms of this moratorium. It shall be the burden of the applicant for such relief to demonstrate to the satisfaction of the Town Board, upon competent evidence that an unjust result and extraordinary hardship would occur to the applicant, if such relief is not granted, and such showing must demonstrate that the proposed activity for which relief is sought shall be consistent with the reasonable and orderly development of the Town. The unnecessary hardship shall not be the delay in the application process created by this local law.

Section 6. Penalties

A. Any person, firm, entity, or corporation that shall construct, reconstruct, relocate, enlarge, or alter any building or structure in violation of the provisions of this local law, or otherwise violate any provisions of this local law, shall be guilty of a violation and subject to a fine not less than \$250.00 and not more than \$1,000.00, or imprisonment for a term not to exceed fifteen (15) days, or both. Each day the violation continues shall be a separate offense.

B. A civil action inclusive of injunctive relief in favor of the Town to cease any and all such actions which conflict with this local law and, if necessary, to remove any constructions, improvements, or related items or byproducts which may have taken place in violation of this local law.

Section 7. Enforcement

This local law shall be enforced by the Code Enforcement Officer of the Town of Southport.

Section 8. Authority

This moratorium is enacted by the Town Board pursuant to its authority to adopt local laws under Article IX of the New York State Constitution and Municipal Home Rules Law §10.

Section 9. Supersession of the Town Law

This local law is hereby adopted pursuant to Municipal Home Rules Law §10. It is the intent of the Town Board, pursuant to Municipal Home Rules Law to supersede the following provisions of the New York State Town Law as it relates to zoning and planning determinations under Town Law §274-a, §274-b, §267-b, §276, and §277.

Section 10. Inconsistent Laws

All laws inconsistent with any provision or provisions of this law are hereby repealed.

Section 11. Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law, or the application thereof to any person, firm or corporation or circumstance, is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law, or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 12. Effective Date

This local law shall take effect immediately upon filing with the New York State Secretary of State, and shall remain in force and effect for a period of twelve (12) months from the date of passage.

AYES: Gunderman, Hurley, Roman, Szerszen, Sheen
NOES: None
CARRIED.

RESOLUTION NO. 93-2017

SETTING PUBLIC HEARING

Resolution by: Roman
Seconded by: Szerszen

RESOLVED, that the Town Board of the Town of Southport, County of Chemung, New York, will hold a public hearing on June 13, 2017 at 7:15 p.m., or as soon thereafter as it can be heard, at the Town Hall, 1139 Pennsylvania Avenue, Elmira, New York, regarding Local Law No. 3 of 2017, to Override Tax Levy Limit for taxable 2017 year established in General Municipal Law.

AYES: Gunderman, Hurley, Roman, Szerszen, Sheen
NOES: None
CARRIED.

The Supervisor reported that the Town failed to file the Tax Cap Reporting Form to the State last Fall. Since then the report has been filed and the calculation resulted in that the Town’s Lighting District went over the tax cap and a resolution should be made to correct this. The overage was due to a double digit increase in the NYSEG electric cost that we did not foresee. The amount over was approximately \$7,800.00. The Tax Cap Office said to just establish a reserve for that at the next meeting. The Board voted to set a Public Hearing at the next meeting to take care of it.

RESOLUTION NO. 94-2017

APPOINTING WILLIAM EVANS AS SEASONAL RECREATION ATTENDANT/SITE COORDINATOR

Resolution by: Gunderman
Seconded by: Szerszen

WHEREAS, the Director of Recreation of the Town of Southport has recommended that the Town employ a Seasonal Recreation Attendant/Site Coordinator.

NOW THEREFORE BE IT RESOLVED, that the Town of Southport does hereby appoint the following individual to be paid as any other Town employee pursuant to the following schedule:

<u>NAME</u>	<u>POSITION</u>	<u>COMPENSATION</u>	<u>EFFECTIVE DATE</u>
William Evans	Recreation Attendant/Site Coordinator	\$13.00 pr/hr	5/15/17

and be it further

RESOLVED, that except for New York State retirement benefits, the aforementioned individual shall not be entitled to any benefits as a result of his employment by the Town of Southport, including but not limited to health insurance, and be it further

RESOLVED, that the aforementioned individual shall not commence his employment with the Town of Southport until such time as filed with the Town Clerk, his appropriate Oath of Office as required by law.

AYES: Gunderman, Hurley, Roman, Szerszen, Sheen
NOES: None
CARRIED.

RESOLUTION NO. 95-2017

SIGNAGE FOR PARKING ON ELMIRA STREET FOR TRAIL USE PURPOSES

Resolution by: Szerszen
Seconded by: Hurley

WHEREAS, the Town of Southport Planning Board recommends that the Town of Southport Town Board place additional signage for parking purposes on Elmira Street near the trail as required by the Department of Environmental Conservation for purposes which include access to trail for emergency vehicles, and

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Southport, authorizes and directs the Town Highway Superintendent to place proper signage to control parking on Elmira Street near the trail access in accordance with the Department of Environmental Conservation rules and regulations for the purpose including, but not limited to emergency vehicle access.

AYES: Gunderman, Hurley, Roman, Szerszen, Sheen
NOES: None
CARRIED.

RESOLUTION NO. 96-2017

APPOINTING KEN DAWSON AS A MEMBER OF THE TOWN OF SOUTHPORT SEWER COMMISSION

Resolution by: Szerszen
Seconded by: Gunderman

RESOLVED, that Ken Dawson is hereby appointed to serve a term of three (3) years as a member of the Town of Southport Sewer Commission, term to expire 4/30/2020.

AYES: Gunderman, Hurley, Roman, Szerszen, Sheen
NOES: None
CARRIED.

RESOLUTION NO. 97-2017

AUTHORIZING THE SUPERVISOR TO SELL TOWN PROPERTY LOCATED ON CIRCUIT DRIVE

Resolution by: Hurley
Seconded by: Szerszen

WHEREAS, the Town of Southport currently owns property that consists of a strip of land which is a walkway that is approximately 25 feet wide which travels from the cul-de-sac of Circuit Drive to Plymouth Avenue in the Town of Southport; and

WHEREAS, residents who live adjacent to this walkway have expressed an interest in purchasing a portion of this walkway; and

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Southport hereby authorizes the Town Supervisor to engage in negotiations regarding the potential sale of the Town Property consisting of the walkway which begins at the cul-de-sac of Circuit Drive and continues to Plymouth Avenue within the Town with the residents who own property adjacent to the walkway.

AYES: Gunderman, Hurley, Szerszen, Sheen
NOES: Roman
CARRIED.

Under Discussion was recommendation from Planning Board to adopt a Complete Streets Policy. This will be tabled until the June meeting.

Under Taxpayer's Comments, Charles Collins from 436 Kinner Hill Road spoke on public comment at all appointed board meetings.

Charles Wilson from 399 Widger Hill Road commented on the ditches on Widger Hill Road, mowing on Rte. 328 and a Seasonal Code Enforcement Officer.

Mark Watts from 6 Groff Road, Horseheads spoke regarding concerns he has about a vacant home at 992 Pauline Avenue. He owns the property at 990 Pauline Avenue, which is right next door. He had previously given the Code Enforcement Office a list of concerns that he has regarding this property and is asking what can be done to rectify the problems.

Supervisor Sheen stated he has received numerous other complaints about this property.

Code Enforcement Officer Peter Rocchi stated that the concerns have been forwarded to the bank which now owns the property. Mr. Rocchi stated he will also contact NYSEG to get power disconnected from the house, as the gas has already been disconnected.

Supervisor Sheen stated to Mr. Watts he will research what measures can be taken to remedy this situation and get back to him.

Supervisor Sheen asked Highway Superintendent David Bachman about the ditches on Widger Hill Road and he stated that they are all flowing and free from obstruction.

Council Member Gunderman made a motion, Council Member Szerszen seconded to adjourn the meeting.

The meeting was adjourned at 8:06 p.m.

Respectfully Submitted,

Carolyn A. Renko, Town Clerk