

February 13, 2018

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 February 13, 2018.

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 Steven Renko, Director of Recreation David Ellis, Recreation Attendant Robert Ripley, 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	\$ 1,770.58
Funds Turned to State & County Agencies	\$ 359.92
Fitzsimmons Lot Sales	<u>\$ 400.00</u>
	\$ 2,530.50

Receiver of Taxes

Town and County Tax Collected	\$ 2,789,038.87
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Code Enforcement Office

Fees Collected	Building Permit Fees	\$ 226.00
	Building Permit Values	\$ 61,400.00
	Operating Permit Fees	\$ 200.00
	Site Plan Fees	\$ 225.00

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

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

The annual reports will be tabled until the March Meeting.

There was no Correspondence received.

Council Member Gunderman made a motion, Council Member Szerszen seconded to accept the minutes of the January 2, 2018 Organizational Meeting and January 9, 2018 Regular Meeting.

Under Taxpayer's Comments, Agenda and Discussion items only, no one wished to speak.

RESOLUTION NO. 46-2018

APPROVING ABSTRACT OF GENERAL FUND CLAIMS

Resolution by: Gunderman
Seconded by: Szerszen

RESOLVED, that the Abstract of General Fund Claims submitted by the Town Clerk for the month of February 2018, No. 38 through No. 109, not to exceed \$143,678.80, has been audited and approved for payment by this Town Board.

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

RESOLUTION NO. 47-2018

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 February 2018, No. 4 through No. 29, not to exceed \$97,645.22, has been audited and approved for payment by this Town Board.

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

RESOLUTION NO. 48-2018

APPROVING ABSTRACT OF LIGHT FUND CLAIM AND FIRE FUND CLAIMS

Resolution by: Hurley
Seconded by: Szerszen

RESOLVED, that the Abstract of Light Fund Claim No. 2, not to exceed \$8,693.01, submitted by the Town Clerk for the month of February 2018, and Fire Fund Claims No. 1 through No. 7, not to exceed \$645,259.75, has been audited and approved for payment by this Town Board.

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

RESOLUTION NO. 49-2018

AUTHORIZING SUPERVISOR TO ENTER INTO AN AGREEMENT FOR VEGETATION MANAGEMENT IN CHAPEL PARK WATERWAY AND BULKHEAD MEMORIAL

Resolution by: Roman
Seconded by: Szerszen

WHEREAS, the Chapel Park Waterway and Bulkhead Memorial are in need of vegetation management, and

WHEREAS, Certified Lawn Care has submitted a proposal to provide a vegetation control plan in the Chapel Park Waterway and Bulkhead Memorial in April –May, June-July, August-September 2018 for a total of TWO THOUSAND TWO HUNDRED EIGHTY DOLLARS AND 00/100 (\$2,280.00),

NOW THEREFORE BE IT RESOLVED, that the Town Supervisor is hereby authorized and directed to enter into an agreement with Certified Lawn Care for vegetation management at Chapel Park Waterway and Bulkhead Memorial, and be it further

RESOLVED, that this agreement be subject to the review and approval of the Attorney for the Town.

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

RESOLUTION NO. 50-2018

AUTHORIZING SUPERVISOR TO ADVERTISE FOR BIDS FOR CONSTRUCTION OF THE
LELAND AREA SANITARY SEWER PROJECT

Resolution by: Roman
Seconded by: Gunderman

RESOLVED, that the Supervisor be and he hereby is authorized to advertise for bids for the Leland Area Sanitary Sewer Project, and be it further

RESOLVED, that such sealed bids shall be publically opened and read by this Town Board on March 20, 2018 at 2:00 p.m.

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

RESOLUTION NO. 51-2018

INTERMUNICIPAL AGREEMENT REGARDING SERVICES TO BE PROVIDED RELATING TO STORMWATER
MANAGEMENT AND EROSION AND SEDIMENT CONTROL

Resolution by: Roman
Seconded by: Szerszen

This **INTERMUNICIPAL AGREEMENT** made the 13th day of February, 2018, among the municipal corporations of the **TOWN OF ASHLAND**, 3663 Sixth Street, Wellsburg, NY 14894; **TOWN OF BALDWIN**, 622 Breesport-North Chemung Road, Lowman, NY 14861; **TOWN OF BIG FLATS**, 476 Maple Street, Big Flats, NY 14814; **TOWN OF CATLIN**, 1448 Chambers Road, Beaver Dams, NY 14812; **TOWN OF CHEMUNG**, 788 Rotary Road Ext., Chemung, NY 14825; **TOWN OF ELMIRA**, 1255 West Water Street, Elmira, NY 14905; **TOWN OF ERIN**, 1138 Breesport Road, Erin, NY 14838; **TOWN OF HORSEHEADS**, 150 Wygant Road, Horseheads, NY 14845; **TOWN OF SOUTHPORT**, 1139 Pennsylvania Avenue, Elmira, NY 14904; **TOWN OF VAN ETTEN**, 83 Main St. , P.O. Box 177, Van Etten, NY 14889; **TOWN OF VETERAN**, 4049 Watkins Road, Millport, NY 14864; hereinafter referred to as "Towns"; the municipal corporations of the **VILLAGE OF ELMIRA HEIGHTS**, 215 Elmwood Avenue, Elmira Heights, NY 14903; **VILLAGE OF HORSEHEADS**, 202 South Main Street, Horseheads, NY 14845; **VILLAGE OF MILLPORT**, 4246 Main Street, Millport , NY 14864; **VILLAGE OF VAN ETTEN**, 6 Gee St., Van Etten, NY 14889; **VILLAGE OF WELLSBURG**, 3663 Sixth St., Wellsburg, NY 14894, hereinafter referred to as "Villages"; the municipal corporation of the **CITY OF ELMIRA**, 317 East Church Street, Elmira, NY 14901, hereinafter referred to as "City" ; the **COUNTY OF CHEMUNG**, a municipal corporation with offices at 203 Lake Street, Elmira, NY 14901, hereinafter to as "County"; and the **CHEMUNG COUNTY SOIL AND WATER CONSERVATION DISTRICT**, with offices at 851 Chemung Street, Horseheads, NY 14845, hereinafter referred to as "District", as authorized by Article 5-G of the General Municipal Law.

WHEREAS, all of the municipalities listed above are members of the Chemung County Council of Governments whose purpose it is to facilitate agreements and cooperative action proposals among member governments for specific projects or other inter-related developmental needs and for the adoption of common policies and plans with respect to common countywide challenges, and

WHEREAS, the Chemung County Soil and Water Conservation District is responsible for coordination of water quality management activities in Chemung County through the Chemung County Water Quality Strategy Committee, and

WHEREAS, the Chemung County Stormwater Coalition was formed in 2003 to assist municipalities within Chemung County in identifying and analyzing options for pooling resources to meet the requirements of the Phase II Federal Stormwater Regulations, and

WHEREAS, the Towns, Villages, City and County have an interest in protecting water quality and have been participating in or following the work of the Chemung County Stormwater Coalition and the Chemung County Water Quality Strategy Committee, and

WHEREAS, The Towns of Ashland, Big Flats, Elmira, Horseheads, Southport, and Veteran, and the Villages of Elmira Heights, Horseheads, Millport and Wellsburg, and the City of Elmira were designated as municipal separate storm sewer systems (MS4's) and required by the Phase II Federal Stormwater Regulations to implement a stormwater management program that included six minimum control measures by January 8, 2008, and

WHEREAS, the Chemung County Stormwater Coalition has been holding monthly meetings to assist the MS4 municipalities in identifying and analyzing options for pooling resources to meet the requirements of the Phase II Federal Stormwater Regulations, and

WHEREAS, the Towns of Baldwin, Catlin, Chemung, Erin and Van Etten, and the Village of Van Etten were not designated as municipal separate storm sewer systems (non-MS4's) under the Phase II Federal Stormwater Regulations and therefore were not required to implement a stormwater management program by January 8, 2008, and

WHEREAS, as part of the implementation process of the Phase II Federal Stormwater Regulations, the eleven (11) MS4 municipalities enacted their own Stormwater Management and Erosion and Sediment Control Law to address minimum control measures #4 (Construction Site Stormwater Runoff Control) and #5 (Post Construction Stormwater Management); and

WHEREAS, each municipality's Stormwater Management and Erosion and Sediment Control Law establishes a requirement for the review and approval of a Stormwater Pollution Prevention Plan by the municipality, as well as periodic inspections of the land development activity by the municipality; and

WHEREAS, each municipality's Stormwater Management and Erosion and Sediment Control Law provides that the municipality's Stormwater Management Officer may designate, in writing, a third party to review the Stormwater Pollution Prevention Plans and to conduct inspections as required by the Stormwater Management and Erosion and Sediment Control Law, and

WHEREAS, the Towns, Villages, City and County recognize the benefits of cooperating to achieve improved water quality and erosion and sediment control, and

WHEREAS, the Chemung County Soil and Water Conservation District has formed a Stormwater Team to assist the MS4 municipalities with the review of the Stormwater Pollution Prevention Plans and to conduct inspections as required by the municipalities Stormwater Management and Erosion and Sediment Control Laws, and

WHEREAS, the non-MS4's feel that it is important to be active in issues related to stormwater management in Chemung County and that they will benefit from the information and education that will be provided countywide by the Stormwater Team.

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the parties hereto mutually agree as follows:

1. To authorize the Chemung County Soil and Water Conservation District to maintain a Chemung County Stormwater Team whose purpose it is to assist the municipalities in Chemung County in protecting and improving the water quality of local waterways in accordance with State, County, and local water quality laws and policies.
2. The Chemung County Stormwater Team shall be supervised and managed by a Chemung County Stormwater Board of Directors. The Stormwater Board of Directors shall be a five (5) member board appointed by the Chemung County Legislature based upon the recommendation of the Chemung County Stormwater Coalition in consultation with participating municipalities. The Board shall be comprised of at least two (2) members from the MS4 communities within Chemung County, and at least one (1) member from the non-MS4 communities within Chemung County. Members of the Stormwater Board of Directors shall be appointed for three-year terms.

In order to establish staggered terms of office of the members of the Stormwater Board of Directors first appointed, one (1) Director shall be appointed for a one-year term, two (2) Directors shall be appointed for two-year terms, and two (2) Directors shall be appointed for three-year terms. If a vacancy shall occur other than by expiration, it shall be filled by appointment for the unexpired portion of the term. Upon expiration of such designated terms, successors shall be appointed for full three-year terms as provided above. Each member, unless sooner terminated, shall serve until his or her successor is appointed and qualified.

3. The Chemung County Stormwater Team will consist of a Professional Engineer, a technician and an education coordinator.
4. The Chemung County Soil and Water Conservation District will provide the staffing necessary to perform the duties required of the Stormwater Team.
5. Employees or contractors hired by the Chemung County Soil and Water Conservation District for the performance of the work by the Stormwater Team will be hired with no discrimination by reason of race, creed, color, sex, age, physical disability, or national origin.

6. The Chemung County Soil and Water Conservation District will provide office space for the Stormwater Team.
7. The Chemung County Soil and Water Conservation District will work directly with the Stormwater Board of Directors to coordinate the management and supervision of the Stormwater Team.
8. Funding for the Chemung County Stormwater Team will be provided under the following formula:
 - a. a budget will be established for the Stormwater Team by the Chemung County Soil and Water Conservation District in consultation with the Chemung County Stormwater Coalition
 - b. 62% of the funding will be provided by Chemung County not to exceed \$186,000.00 in any given year.
 - c. 18% of the funding will be provided by all seventeen (17) of the municipalities within Chemung County using the historical 2008 sales tax formula.
 - d. 20% of the funding will be provided by the eleven (11) MS4 communities within Chemung County based upon the following five (5) parameters:
 - i. lane miles within the municipality.
 - ii. impervious areas within the municipality;
 - iii. population of each municipality;
 - iv. illicit discharge probability; and
 - v. potential for development within the municipality.

Each parameter will be divided into High, Medium, and Low, with points given as follows: High (10 pts), Medium (5 pts), and Low (1 pt).

The total points would then be added up among the eleven (11) MS4 communities and divided by the amount of funding needed to determine the dollar value of each point. Each municipality's share would be determined by multiplying the number of points for the municipality by the dollar value of each point.

 - e. Payments set forth in the budget will be remitted to the Chemung County Soil and Water Conservation District/Stormwater Team by each municipality twice a year, on January 31st and July 31st, respectively.
9. The Chemung County Soil and Water Conservation District will submit annual reports regarding the activities of the Chemung County Stormwater Team. The annual report shall be provided to each party to this Agreement by no later than June 1st of each year. The annual report will include activities of the Stormwater Team during the past year, expenses to date and the proposed budget for the upcoming year.
10. The Stormwater Management Officer for each municipality shall designate in writing that the Chemung County Stormwater Team has the authority to review Stormwater Pollution Prevention Plans on behalf of the Stormwater Management Officer, to forward such plans to the applicable approval authority for approval, and to conduct inspections of stormwater management practices both during and after construction. Such designation shall be approved by the legislative authority for each municipality.

11. This Agreement may be modified or amended only in writing duly executed by all parties, which shall be attached to and become part of this Agreement.
12. Each municipal corporation shall indemnify and hold harmless the other municipal corporations, its officers, agents and assigns for all liability arising as a result of its own acts and omissions regarding the activities under this Agreement. It is understood and agreed that no municipal corporation shall indemnify any or all of the other municipal corporations for liability arising as a result of the acts or omissions of another municipal corporation who is a party to this Agreement.
13. The Chemung County Soil and Water Conservation District will provide professional liability insurance on behalf of the Stormwater Team.
14. The Agreement shall be governed and construed in accordance with the laws of New York without regard or reference to its conflict of laws and principles.
15. This Agreement shall be for a period of five (5) years, running from July 1, 2018 through June 30, 2023.
16. This Agreement shall become effective upon the municipal corporation's execution of the Agreement. In the event that not all of the municipal corporations identified in the initial paragraph execute the Agreement, the municipal corporations executing the Agreement agree that it shall be binding as to them.
17. Any municipal corporation may withdraw from this Agreement upon sixty (60) days written notice to the other municipal corporations who are parties to the Agreement. The withdrawal of one or more municipal corporations shall not result in the termination of this Agreement and its provisions shall continue to be applicable to the municipal corporations remaining parties to the Agreement. In the event that a municipal corporation withdraws from this Agreement the funding formula will be recalculated and reallocated among the remaining municipal corporations.
18. This Agreement may be terminated upon the written consent of a majority of the municipal corporations who are parties to this Agreement at the time of the proposed termination. At the time of termination of the Stormwater Management Team any funds remaining in the Stormwater accounts will be returned to the municipal corporation utilizing the same formula created to collect the initial funding.

AYES: Gunderman, Hurley, Roman, Szerszen, Sheen

NOES: None

CARRIED.

RESOLUTION NO. 52-2018

AUTHORIZING THE TOWN BOARD TO ENGAGE THE SERVICES OF WILLIAM P. JOHNSON AS RADIO FREQUENCY ENGINEER IN CONJUNCTION WITH A SELF-SUPPORT TOWER TELECOMMUNICATIONS FACILITY AND TO GRANT THE PLANNING BOARD THE DISCRETION TO ENGAGE THE SERVICES OF A CONSULTANT FOR VISUAL IMPACT ANALYSIS FOR THIS PROJECT

Resolution by: Roman
Seconded by: Gunderman

WHEREAS, Up State Tower Company, LLC and Buffalo-Lake Erie Wireless Systems have submitted a site plan application to the Town of Southport Planning Board (the "Planning Board") and a variance application to the Town of Southport Zoning Board of Appeals (the "ZBA") for the construction of a 167+ foot self-support tower telecommunications facility as the easterly terminus of Morley Place in the Town of Southport (the "Project"), and

WHEREAS, for the review of the proposed Project the Planning Board and the ZBA (collectively, the "Boards") require the assistance of a radio frequency engineer and a consultant to analyze potential visual impact of the proposed Project's, and

WHEREAS, in accordance to Chapter 525 Zoning, Article VII, Site Plan Review and Approval, Section 525-65 of the Southport Code, the Town of Southport Town Board may require an applicant for site plan review to deposit in an escrow account a reasonable amount established by the Planning Board to pay the fees and/or costs of any consultant, engineer, or attorney designated by the Town Board and in accordance to Article XII Administrative Provisions Section 525-143 (1) Fees shall apply for required or authorized zoning procedures, (2) The applicant shall be responsible for the review incurred by the Town for professional engineers, planners, architects or attorney's during the subdivision, site plan or permit application process, and

WHEREAS, the Planning Board is recommending that the Town Board designate William P. Johnson as the radio frequency engineer to provide professional services related to this application and that the Town Board grant the Planning Board the discretion to engage the services of a visual impact consultant, to be identified by the Planning Board at a later date; and

WHEREAS, the Planning Board is recommending that the Town Board due to the relatively small size of said Project require the applicant to deposit one hundred percent (100%) of the fees and/or costs associated with Mr. Johnson's professional services and the designated consultant's visual impact analysis into an escrow account, and

NOW THEREFORE BE IT RESOLVED, that the Town of Southport Town Board designates William P. Johnson as the radio frequency engineer for the Town on this Project and authorizes the Town Supervisor to enter into a contract for these professional services on behalf of the Town and the Town Board further authorizes the Town Supervisor to enter into a contract with a consultant as recommended by the Planning Board for services related to a visual impact analysis for this Project, and

BE IT FURTHER RESOLVED, that based upon the Planning Board's recommendation the Town Board mandates that the applicants, Up State Tower Company, LLC and Buffalo-Lake Erie Wireless Systems, remit one hundred percent (100%) of the fees and/or costs associated with the services provided by William P. Johnson as the Town's radio frequency engineer and remit 100% of the fees and/or costs associated with the preparation of a visual impact analysis by a consultant to be designated at a later date in advance of review of this project into an escrow account.

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

RESOLUTION NO. 53-2018

AUTHORIZING WITHDRAWAL OF FUNDS FROM THE HIGHWAY EQUIPMENT RESERVE FUND

Resolution by: Gunderman
Seconded by: Hurley

WHEREAS, the Town Board by Resolution No. 124-2005 did authorize the establishment of a Highway Equipment Reserve Fund, the purpose of which is to assist with the purchase of additional equipment to serve the residents of the Town of Southport, and

WHEREAS, the Town has purchased a salt spreader for the Highway Department.

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Southport, in regular session duly convened, does hereby authorize the withdrawal of \$5,285.00 from the Town's Highway Equipment Reserve Fund for the purchase of a salt spreader, and be it further resolved,

RESOLVED, this resolution is subject to a permissive referendum.

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

RESOLUTION NO. 54-2018

SETTING PUBLIC HEARING

Resolution by: Roman
Seconded by: Hurley

RESOLVED, that the Town Board of the Town of Southport, County of Chemung, New York, will hold a public hearing on March 13, 2018 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 proposed amendment to §525-33 Special Dimensional requirements in the Bulk and Density Control Requirements with the proposed changes, to accept the amendment to the definitions for Agricultural Use in §525-5 and to accept the changes to the Use Regulation Table.

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

RESOLUTION NO. 55-2018

SETTING PUBLIC HEARING

Resolution by: Gunderman
Seconded by: Szerszen

RESOLVED, that the Town Board of the Town of Southport, County of Chemung, New York, will hold a public hearing on March 13, 2018 at 7:30 p.m., or as soon thereafter as it can be heard, at the Town Hall, 1139 Pennsylvania Avenue, Elmira, New York, regarding proposed amendment to Chapter 444 Solid Waste, to remove "return receipt requested" and add "served personally or".

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

RESOLUTION NO. 56-2018

SETTING PUBLIC HEARING

Resolution by: Roman
Seconded by: Gunderman

RESOLVED, that the Town Board of the Town of Southport, County of Chemung, New York, will hold a public hearing on March 13, 2018 at 7:45 p.m., or as soon thereafter as it can be heard, at the Town Hall, 1139 Pennsylvania Avenue, Elmira, New York, regarding proposed amendment to Chapter 245 Construction Codes, Uniform, to remove the "registered mail/certified" language.

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

Under Taxpayer's Comments, Charles Collins from 436 Kinner Hill Road commented on the Leland Area Sanitary Sewer.

Mike Krusen from 406 Rambler Road congratulated the Town Board on their budget and great fiscal management.

Charles Wilson from 399 Widger Hill Road commented on the cleaning and attorney contracts.

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

The meeting was adjourned at 7:35 p.m.

Respectfully Submitted,

Carolyn A. Renko, Town Clerk