

April 10, 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 April 10, 2018.

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

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	\$ 2,528.01
Fitzsimons Lot Sales	\$ 275.00
Funds Turned to State & County Agencies	<u>\$ 1,020.49</u>
	\$ 3,823.50

Receiver of Taxes

Town and County Tax Collected	\$ 248,445.30
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Code Enforcement Office

Fees Collected:	Building Permit Fees	\$ 175.00
	Building Permit Values	\$ 14,385.00
	Site Plan 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.

Under Correspondence, Supervisor Sheen read a note from Reverend Horace Stoddard to Dave Ellis, thanking him and the Town for the use of Draxler Park for the Easter Dawn Pageant that was held on April 1, 2018.

Council Member Gunderman made a motion, Council Member Hurley seconded to accept the minutes of the March 13, 2018 Regular Meeting.

Under Taxpayer's Comments, Agenda and Discussion items only, Charles Collins from 436 Kinner Hill Road commented on the proposed amendments to §525-33. Charles Wilson from 399 Widger Hill Road also commented on the proposed amendments to §525-33.

RESOLUTION NO. 68-2018

CANCELLING PUBLIC HEARING

Resolution by: Roman
Seconded by: Gunderman

RESOLVED, due to the extent of the 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, the public hearing was cancelled and this will be referred back to the Town of Southport Planning Board for their review.

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

RESOLUTION 69-2018

REFERRAL TO TOWN OF SOUTHPORT PLANNING BOARD
PROPOSED LOCAL LAW # 2 OF 2018

Resolution by: Roman
Seconded by: Szerszen

WHEREAS, the Town of Southport consists of rural and urban areas and residents in each area of the Town enjoy different uses of land. The Town Board wishes to enact the following amendments proposed in this local law to promote agricultural uses where allowable while still preserving the uses and enjoyment of property for those residents in neighboring areas which provide for a more urban setting; and

WHEREAS, the Town of Southport wishes to amend Chapter 525 Zoning: Article II, Interpretation; Definitions and Word Usage, Section 525-5, Definitions; Article IV, Use Districts, Section 525-20, Use Regulation Table (Attachment 1); Article V, Bulk and Density Control Requirements, Section 525-33, Special Dimensional Requirements; and

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Southport, County of Chemung, State of New York that said proposed amendments as set forth below to Chapter 525 Zoning: Article II, Interpretation; Definitions and Word Usage, Section 525-5, Definitions; Article IV, Use Districts, Section 525-20, Use Regulation Table (Attachment 1); Article V, Bulk and Density Control Requirements, Section 525-33, Special Dimensional Requirements; are hereby proposed and referred to the Town of Southport Planning Board as required by the Town of Southport zoning law.

PROPOSED LOCAL LAW # 2 OF 2018

LOCAL LAW #2 IN THE YEAR OF 2018 TO AMEND CHAPTER 525 ZONING: ARTICLE II, INTERPRETATION; DEFINITIONS AND WORK USAGE, SECTION 525-5, DEFINITIONS; ARTICLE IV, USE DISTRICTS, SECTION 525-20, USE REGULATION TABLE (ATTACHMENT 1); ARTICLE V, BULK AND DENSITY CONTROL REQUIREMENTS, SECTION 525-33, SPECIAL DIMENSIONAL REQUIREMENTS

Section 1. Chapter 525 Zoning: Article II, Interpretation; Definitions and Word Usage, Section 525-5, Definitions is hereby amended to read as follows:

§525-5 Definitions

AGRICULTURAL USE, GENERAL

The production, keeping or maintenance of plants and animals, including, but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, lamas, alpacas, or goats, or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees, forest products and forestry uses; and fruits of all kinds, including grapes, nuts, berries and vegetables, unless regulated by other sections of this chapter. Agricultural Uses shall not include vegetable or flower gardens where the produce is for personal use and the products are not for sale. (Refer to §525-33 Special requirements for restrictions)

AGRICULTURAL USE, COMMERCIAL

An AGRICULTURAL USE, GENERAL, that involves over 300 mammals and/or 1000 fowl or is a Concentrated Animal Feeding Operation (CAFO) as defined by the New York State Environmental Conservation Law. (Refer to §525-33 Special requirements for restrictions)

AGRICULTURAL USE, COMMERCIAL STABLE

Any use that involves horses, donkeys, mules, lamas, alpacas, or any similar animals for any related business purpose and/or for compensation, and/or incidental to the operation of any club, association or similar establishment. (Refer to §525-33 Special requirements for restrictions)

AGRICULTURAL USE, INDUSTRIAL

Any milk processing plant; feed storage supply facility; farm machinery or equipment sales and service facility; storage and processing facility for fruits, vegetables and other agricultural products; or similar use directly and customarily related to the supply and service of an agricultural use. Agricultural Use, Industrial, does not include on-farm production, preparation or marketing of crops, livestock and livestock products incidental to a General Agricultural Use or Commercial Agricultural Use. (Refer to §525-33 Special requirements for restrictions)

AGRICULTURAL USE, PERSONAL

Any AGRICULTURAL USE, GENERAL, with a maximum combined total of not more than 5 livestock animals, except for horses as set forth in 525-33(A)(3), and not more than 25 fowl and if the use includes the sale of agricultural products, plants and animals as defined in Agricultural Use, General, those agricultural products for sale must be produced on the lot and such agricultural products shall only be sold from a single on-site temporary roadside stand or off-site market. Except for the sale of animals as defined in Agricultural, Commercial Stable, as such use or related sale shall follow requirements for Agricultural, Commercial Stable. (Refer to §525-33 Special requirements for restrictions)

STABLE, COMMERCIAL

~~Any establishment where horses, donkeys, mules, or similar animals are kept for training, riding, driving or stabling, for compensation, or incidental to the operation of any club, association or similar establishment.~~

STABLE, PRIVATE

~~A building accessory to a residential use, in which horses, cows, sheep and/or other large mammals are kept for private use and not for remuneration.~~

Section 2. Chapter 525 Zoning, Article IV, Use Districts, Section 525-20, Use Regulation Table (Attachment 1) is hereby amended as follows:

525-20
Attachment 1
Use Regulation Table

ACCESSORY USES	AR	R1	R2	R3	CN	CR	I	C
Accessory dwelling unit	S	SUP	S	S	S	S		
Day care – family home	P	P	P	P	P	P	P	P
Day care – group family home	P	P	P	P	P	P	P	P
Home occupation	S	S	S	S	S			
Cottage industry	SUP			SUP	SUP	SUP		
Agricultural Use, Personal	P	S						
Seasonal business	P				P		S	
GENERAL USES	AR	R1	R2	R3	CN	CR	I	C
Airport/heliport	S						S	
Agriculture, General	P						P	S
Agriculture, Commercial	S							
Agriculture, Commercial Stable	S							
Agriculture, Industrial	S				S	S	S	
Antenna	S						S	
Churches	S		SUP	SUP	SUP			
Club – rod and gun	P							
Club, membership	S				S	S		
Day-care center	S				SUP	S	S	
Extraction, private	P						P	S
Golf course, driving range	S							S
Kennel	SUP				SUP			
Nursing home, convalescent home	S			S	S	S		
Private school			S		S	S		
Public/government use	P	P	P	P	P	P	P	S
Public utility	S		S	S	S	S	S	S
Roadside stand	P	P	P	P	P	P		S
Stable, commercial	S							
Stable, private	P							

Section 3. Chapter 525 Zoning, Article V, Bulk and Density Control Requirements, Section 525-33, Special Dimensional Requirements is hereby amended as follows:

§ 525-33: Special requirements.

- A. Special requirements for each Agricultural Use identified and defined in §525-5 shall apply as follows:
- 1) An Agricultural Use, General and Agricultural Use, Commercial Stable, shall have a minimum lot area of 7 acres except as otherwise prescribed by this section.
 - 2) The keeping or maintenance of animals or animal waste for any use on any parcel shall be not less than 150 feet from any residence located on another parcel.
 - 3) Any use that involves the keeping of horses, donkeys, mules, lamas, alpacas or similar animals requires a minimum lot area of one acre per said animal.
 - 4) Adequate shelter shall be provided to protect all animals on the site and adequate fencing shall be provided to secure and contain all animals on the site.
 - 5) An Agricultural Use, Commercial, shall have a minimum lot area as permitted by a Concentrated Animal Feeding Operation Permit issued by the New York State Department of Environmental Conservation, or as otherwise determined by site plan review.
 - 6) An Agricultural Use, Industrial, shall have lot sizes and minimum setbacks as required by site plan review.
 - 7) An Agricultural Use, Personal:
 - a) Within any R1 zoning district that involves animals shall have a minimum lot of 5 acres.
 - b) Within any AR zoning district that involves animals shall have a minimum lot of 3 acres.

Section 4. Inconsistent Zoning Ordinances.

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

Section 5. Effective Date.

This Local Law shall take effect immediately upon adoption and publication according to law.

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

RESOLUTION NO. 70-2018

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 April 2018, No. 171 through No. 229, not to exceed \$87,430.42, has been audited and approved for payment by this Town Board.

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

RESOLUTION NO. 71-2018

APPROVING ABSTRACT OF HIGHWAY FUND CLAIMS

Resolution by: Szerszen
Seconded by: Hurley

RESOLVED, that the Abstract of Highway Fund Claims submitted by the Town Clerk for the month of April 2018, No. 52 through No. 67, not to exceed \$49,826.60, has been audited and approved for payment by this Town Board.

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

RESOLUTION NO. 72-2018

APPROVING ABSTRACT OF LIGHT FUND CLAIM AND FIRE FUND CLAIMS

Resolution by: Roman
Seconded by: Gunderman

RESOLVED, that the Abstract of Light Fund Claim No. 4, not to exceed \$8,008.62, submitted by the Town Clerk for the month of April 2018, and Fire Fund Claims No. 8 and 9, not to exceed \$19,070.75, has been audited and approved for payment by this Town Board.

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

Resolution Adopting Standard Workday and Retirement reporting to the New York State and Local Retirement System will be tabled until the May 8, 2018 meeting.

RESOLUTION NO. 73-2018

AMENDING RESOLUTION NO. 169-2017 AUTHORIZING SUPERVISOR TO ENTER INTO AN AGREEMENT WITH THE ELMIRA CITY SCHOOL DISTRICT

Resolution by: Roman
Seconded by: Gunderman

RESOLVED, that per Resolution No. 169-2017 the Supervisor entered into an Agreement with the Elmira City School District for use of school facilities at an amount not to exceed FOUR THOUSAND DOLLARS AND 00/00 (\$4,000.00) annually, and be it further

RESOLVED, that the Agreement amount be adjusted to FOUR THOUSAND FIVE HUNDRED DOLLARS (\$4,500.00) annually for the use of school facilities.

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

RESOLUTION NO. 74-2018

RATIFYING APPOINTMENT OF MATTHEW WICHTOWSKI AS SEASONAL LABORER

Resolution by: Szerszen
Seconded by: Roman

WHEREAS, the Supervisor has advised this Town Board that the need exists for seasonal laborers in accordance with budgetary appropriations.

NOW THEREFORE BE IT RESOLVED, that the following seasonal laborer appointment be effective April 2, 2018 and that the individual 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>
Matthew Wichtowski	Seasonal Laborer	\$11.40 pr/hr	4/2/18

and be it further

RESOLVED, that 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 commence his employment with the Town of Southport until such time as he has 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. 75-2018

APPOINTING ADAM SHAYLOR AS SEASONAL LABORER

Resolution by: Roman
Seconded by: Szerszen

WHEREAS, the Supervisor has advised this Town Board that the need exists for seasonal laborers in accordance with budgetary appropriations.

NOW THEREFORE BE IT RESOLVED, that the following seasonal laborer appointment be effective June 18, 2018 and that the individual 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>
Adam Shaylor	Seasonal Laborer	\$ 11.40 pr/hr	6/18/18

and be it further

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

RESOLVED, that the aforementioned individual shall commence his employment with the Town of Southport until such time as he has 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. 76-2018

REAPPOINTING MARSHALL LEJEDAL AS A MEMBER OF THE TOWN OF SOUTHPORT
SEWER COMMISSION

Resolution by: Roman
Seconded by: Gunderman

RESOLVED, that Marshall Lejedal be and he hereby is reappointed to serve a term of three years as a member of the Town of Southport Sewer Commission, term to expire April 30, 2021.

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

RESOLUTION NO. 77-2018

REFERRAL TO TOWN OF SOUTHPORT PLANNING BOARD
PROPOSED LOCAL LAW NO. 1 OF 2018

Resolution by: Szerszen
Seconded by: Roman

WHEREAS, the Town of Southport enacted Local Law No. 2 of 2017 on or about May 9, 2017 to establish a 12-month moratorium in order to allow the Town of Southport to properly plan for any development related to large scale solar energy systems within the Town of Southport; and

WHEREAS, the Town of Southport, as part of its planning in preparation for this potential development in the Town of Southport is reviewing its current zoning laws to address said potential development; and

WHEREAS, Local Law No. 2 of 2017 provided for a temporary 12-month moratorium for any potential development related to any commercial development or installation of solar or wind energy farms as defined herein within the Town of Southport, this proposed Local Law No. 1 of 2018 will provide for a six-month extension of Local Law No. 2 of 2017; and

THEREFORE, BE IT RESOLVED, that the Town of Southport Town Board recommends this proposed local law in the form set forth below be referred to the Town of Southport Planning Board for review as required by Town of Southport zoning law.

PROPOSED LOCAL LAW NO. 1 OF 2018
A SIX-MONTH EXTENSION TO THE TEMPORARY 12-MONTH MORATORIUM ON SOLAR
AND WIND ENERGY DEVELOPMENT WITHIN THE TOWN OF SOUTHPORT

NOW, THEREFORE, BE IT RESOLVED, that said proposed Local Law No. 1 of 2018 for the Town of Southport to provide a six (6) month extension to the temporary 12-month moratorium on solar and wind energy development 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. 1 of the Year 2018, A Six Month Extension to the Temporary 12-Month Moratorium on Solar and Wind Energy Development within the Town of Southport."

Section 2. Legislative Intent.

- A. Local Law No. 2 of 2017 established a 12-month moratorium for any potential development related to any commercial development or installation of solar or wind energy farms as defined herein within the Town of Southport. Pursuant to Local Law No. 2 of 2017, the Town imposed 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 wind energy systems within the Town of Southport.
- B. The purpose of this law is to extend the effective time period for Local Law No. 2 of 2017 to allow the Town additional time to review the zoning laws and to complete the planning process for the Town.
- C. During the period for this extension of the 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.
- D. The Town Board finds pursuant to 6NYCRR 617.5(c) (30) that the adoption of this extension to the 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. Extended Term for Moratorium

- A. Local Law No. 2 of 2017 shall be extended for an additional six (6) months through October 31, 2018.
- B. Except as otherwise amended herein, all provisions of Local Law No. 2 of 2017 shall remain in effect and be extended for an additional six (6) months through October 31, 2018.

Section 4. 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 5. 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-a, § 267-b, § 276, and § 277.

Section 6. Inconsistent Laws.

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

Section 7. 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 8. Effective Date.

This local law shall take effect immediately upon filing with the New York State Secretary of State.

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

RESOLUTION NO. 78-2018

AUTHORIZING THE SUPERVISOR TO ENTER INTO AN AGREEMENT WITH FAMILY SERVICES OF CHEMUNG COUNTY FOR AN EMPLOYEE ASSISTANCE PROGRAM

Resolution by: Gunderman
Seconded by: Szerszen

WHEREAS, the Town of Southport and Family Services of Chemung County, Inc. desires to enter into an agreement for services provided by their Employee Assistance Program, and

WHEREAS, the Agreement provides for a cost of \$25.00 per employee annually, with the Town currently employing 31, thereby totaling \$775.00.

NOW THEREFORE BE IT RESOLVED, that the Town of Southport hereby approves the agreement between the Town of Southport and Family Services of Chemung County, Inc., providing services known as the Employee Assistance Program. The Town of Southport does hereby authorize the Supervisor to sign the contract agreement for the Employee Assistance Program commencing May 1, 2018 and terminating April 30, 2019, at a cost of \$775.00.

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

Regarding the resolution Authorizing an Intermunicipal Agreement between the Town of Southport and the Chemung County Elmira Sewer District for the Leland Street Area Sewer Project, it was determined that no action was needed to be taken in regards to this.

RESOLUTION NO. 79-2018

AUTHORIZING WITHDRAWAL OF FUNDS FROM THE HIGHWAY EQUIPMENT RESERVE FUND

Resolution by: Roman
Seconded by: Szerszen

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 60 gallon fuel tank,

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 \$1,329.95 from the Town's Highway Equipment Reserve Fund for the purchase of a 60 gallon fuel tank, and be it further

RESOLVED, this resolution is subject to a permissive referendum.

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

Council Member Gunderman made a motion, Council Member Roman seconded to refer to the Chemung County Planning Board amendment to §525-107 Home Occupation.

RESOLUTION NO. 80-2018

APPOINTING TRISH PETERSON AS A MEMBER OF THE TOWN OF SOUTHPORT
PLANNING BOARD

Resolution by: Gunderman
Seconded by: Szerszen

RESOLVED, that Trish Peterson be and she hereby is appointed as a member of the Town of Southport Planning Board, to fill the expired term of Michael Stephens, term to expire 04/01/2025.

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

RESOLUTION NO. 81-2018

APPOINTING SUSAN SILVERS AS A MEMBER OF THE TOWN OF SOUTHPORT
ZONING BOARD OF APPEALS

Resolution by: Roman
Seconded by: Szerszen

RESOLVED, that Susan Silvers be and she hereby is appointed as a member of the Town of Southport Zoning Board of Appeals, to fill the expired term of Dan Williams, term to expire 04/01/23.

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

Under discussion was Southport Recreation Association, which will be tabled until the May 8, 2018 meeting.

Under Taxpayer's Comments, Cherie Bennett from 780 Cedar Street commented on the Leland Street Area Sewer Project.

Charles Collins from 436 Kinner Hill Road commented on Section 525-33 Special Dimensional requirements in the Bulk and Density Control Requirements.

Council Member Hurley made a motion, Council Member Szerszen seconded to put Bell's Basin under Discussion on the May 8, 2018 Town Board Meeting agenda.

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

The meeting was adjourned at 7:55 p.m.

Respectfully Submitted,

Carolyn A. Renko, Town Clerk