

April 5, 2022

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 5, 2022

Members Present: Supervisor Joseph Roman, Council Members Glenn Gunderman, Daniel Hurley, Timothy Steed, Daniel Williams

Others Present: Attorney Kimberlee Balok-Middaugh, Deputy Supervisor Kathleen Szerszen, Town Clerk Carolyn Renko, Deputy Town Clerk Marianne Schrom

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

Moment of Silence – Joseph Roman, Supervisor

PUBLIC HEARING 7:05 P.M. – for the purpose of hearing any and all public comment regarding proposed Local Law No. 1 of 2022, a temporary 12-month moratorium for operating unlicensed retail businesses involving the transfer, distribution or sale of cannabis within the Town of Southport.

Town Clerk Carolyn Renko read the notice that appeared in the Star-Gazette. Attorney Kimberlee Balok-Middaugh gave a summary of the Local Law. The public hearing was then opened for public comment.

No one wished to speak, therefore the public hearing was closed at 7:06 p.m.

RESOLUTION NO. 69-2022

LOCAL LAW NO. 1 OF 2022

A TEMPORARY 12-MONTH MORATORIUM FOR OPERATING UNLICENSED RETAIL BUSINESSES INVOLVING THE TRANSFER, DISTRIBUTION, OR SALE OF CANNABIS WITHIN THE TOWN OF SOUTHPORT

Resolution by: Williams
Seconded by: Steed

WHEREAS, to date the New York State Office of the Cannabis Control Board has not established regulations related to the issuance of licenses to businesses for the legal sale of adult-use cannabis, therefore, the Town of Southport Town Board wishes to establish a twelve (12) month moratorium for any unlicensed retail businesses involved with the transfer, distribution, or sale of cannabis within the Town of Southport; and

WHEREAS, that the Town Board of the Town of Southport received approval for the proposed moratorium from the Town of Southport Planning Board and the Chemung County Planning Board; and

WHEREAS, this proposed Local Law No. 1 of 2022, A Temporary 12- Month Moratorium for Operating Unlicensed Retail Businesses Involving the Transfer, Distribution, or Sale of Cannabis Within the Town of Southport, thereof in its final form having been upon the desks of members of the Town Board for at least seven (7) calendar days, exclusive of Sunday, prior to this day, and a public hearing having been duly held on April 5, 2022 at 7:00 p.m. before the Town Board upon public notice provided by law, and the said proposed local law having been read in its final form at this meeting;

NOW THEREFORE, BE IT RESOLVED, the Town Board of the Town of Southport, County of Chemung, State of New York hereby adopts and enacts Local Law No. 1 of 2022, A Temporary 12- Month Moratorium for Operating Unlicensed Retail Businesses Involving the Transfer, Distribution, or Sale of Cannabis Within the Town of Southport is hereby adopted and enacted to wit:

LOCAL LAW NO. 1 OF 2022

A TEMPORARY 12-MONTH MORATORIUM FOR OPERATING UNLICENSED RETAIL BUSINESSES INVOLVING THE TRANSFER, DISTRIBUTION, OR SALE OF CANNABIS WITHIN THE TOWN OF SOUTHPORT

Section 1. Title.

This local law shall be known as “Local Law No. 1 of 2022, A Temporary 12-Month Moratorium for Operating Unlicensed Retail Businesses involving the Transfer, Distribution, or Sale of Cannabis Within the Town of Southport.”

Section 2. LEGISLATIVE INTENT

The Town Board of the Town of Southport, Chemung County, State of New York, is vested by the State of New York to regulate and control land use within the Town of Southport and to protect the health, safety, and welfare of its residents. New York State legalized adult- use cannabis, on March 31, 2021 by passing the Marijuana Regulation & Taxation Act (MRTA). The Act creates the Office of Cannabis Management (OCM) to issue licenses and develop regulations for recreational use of cannabis. The New York State Office of the Cannabis Control Board has yet to establish regulations to allow for the issuance of licenses to businesses to allow for the legal sale of adult-use cannabis or cannabinoid hemp licenses. Therefore, to prevent unlicensed businesses in the Town from providing, distributing, or transferring cannabis as a “gift” to customers which may be based upon the conditional purchase of a product for sale, including but not limited to, an item such as a sticker or shirt, the Town wishes to enact a Town wide moratorium for the establishment of any unlicensed business that distributes, transfers, or sells cannabis.

Based upon current information, the OCM is creating the rules and regulations to oversee the licensing, cultivation, production, distribution, sale, laboratory testing and use of cannabis. The rules and regulations require a process for creation and adoption, which as of this date has not been completed. Therefore, the Town Board, through this local law, declares a twelve (12) month moratorium on the sale, transfer, or distribution, with or without compensation, of cannabis in any amount from a premises, unlicensed by the OCM, located in the Town of Southport by any person, (defined as an individual, firm, estate, partnership company, corporation, limited liability corporation, trustee, governmental subdivision or other public or private entity).

During this twelve (12) month moratorium, the Town of Southport will review and update its zoning code and regulations and monitor the adoption of the rules and regulations regarding licensure by the OCM. The Town Board has deemed this an appropriate amount of time to study whether additional local action is necessary; the extent of such action; if such local action is necessary; provide the Town Board with the time to adopt the appropriate local rules and regulations to ensure comprehensive uniformity, fairness, and consistency in such regulations governing the time, place, and manner of the operation of licensed adult use cannabis retail dispensaries and/or on-site consumption cannabis businesses.

The Town of Southport does hereby find a moratorium of twelve (12) months duration is necessary and reasonable in order to afford the Town time to evaluate whether appropriate laws or ordinances should be enacted for the health, safety, and welfare of the Town residents and properly aligned with the Comprehensive Plan. A moratorium of twelve (12) months will prevent the establishment of unlicensed businesses related to distribution and/or consumption of cannabis. The health, safety and general welfare of the residents will be protected by the adoption of the moratorium pending the issuance of final regulations by the Town of Southport.

Section 3. DEFINITIONS

For definitions, reference shall be made to the Marijuana Regulation & Taxation Act (MRTA). Unlicensed business shall mean a business that has not been issued a license by the Office of Cannabis Management (OCM). Person shall mean an individual, firm, estate, partnership company, corporation, limited liability corporation, trustee, governmental subdivision or other public or private entity.

Section 4. MORATORIUM AND PROHIBITION

- A. For the period of twelve (12) months following the effective date of this local law, no new nor current operating unlicensed retail businesses shall or allow any person to transfer, distribute or sell cannabis within the Town of Southport, whether or not accompanied by any other purchase.

- B. During the effective period of this Local Law:
 - 1. The Town Planning Board shall not consider and/or approve any site plan, related to a proposed unlicensed business involving the transfer, distribution, or sale of cannabis.
 - 2. The Town Zoning Board of Appeals shall not consider and/or grant any variance, or other permit related to a proposed unlicensed business involving cannabis.
 - 3. The Code Enforcement Officer shall not consider and/or issue any land use permit or other permit related to a proposed unlicensed business involving the transfer, distribution, or sale of cannabis.
 - 4. This moratorium and prohibition shall apply to all real property within the Town.
 - 5. Under no circumstances shall the failure of the Town Board of the Town, the Zoning Board of Appeals of the Town, the Planning Board of the Town, or the Code Enforcement Officer for the Town to take any action upon any application for a permit, zoning permit, special permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other Town level approval, constitute an approval by default or an approval by virtue of expiration of time to respond to such application.

Section 5. EXCEPTIONS

The lawful use of any premises on the effective date of this Local Law operated under a permit or license issued by the Town of Southport or other appropriate state or federal agency may be continued.

Section 6. HARDSHIP USE VARIANCES

The Town Board retains the power and sole discretion to vary or adapt the strict application of the requirements of the Local Law in the case of difficulties with the use requirements of the zoning or circumstances that would unconstitutionally deprive the owner of all economically viable and productive use of the lands involved, provided the application is consistent with the intent of this Local Law.

- A. An application for a variance plus seven (7) copies thereof shall be filed with the Town Code Enforcement Office, together with a filing fee of \$250. The application shall specifically identify the land involved, recite the nature of the proposed use of the land, provide a narrative description of the project and identify the circumstances pursuant to which the variance is sought and the reasons why the variance is claimed. It shall also provide documentation, clearly expressing and satisfying all requirements of NYS Law regarding the granting of use variances including that a use variance. Any costs, including expert consulting fees, incurred by the Town shall be paid by the Applicant immediately upon request or the application may be denied.
- B. All decisions on granting or denying such variances shall be made by the Town Board based solely on their careful examination of the required evidence as stated above, and based on whether or not the requested variance is compatible with the Comprehensive Plan of the Town and the Town zoning regulations. Unless the applicant can prove that all of the requirements for the proposed variance are satisfied, the Town Board shall be obligated to deny the application.
- C. The Town Board shall conduct a public hearing on any request for a variance within the time frame outlined in the Town Code.

Section 7. ENFORCEMENT

This Local Law shall be enforced by the Code Enforcement Officer of the Town of Southport, Chemung County Sheriff, local law enforcement agencies or such other zoning enforcement individual(s) as designated by the Town Board. It shall be the duty of the enforcement individual(s) to advise the Town Board of all matters pertaining to the enforcement of this Local Law and to keep all records necessary and appropriate to the office and to file the same in the office of the Town Clerk.

Section 8. VIOLATIONS

In addition to the criminal penalties and other remedies set forth in Town Law section 268, any person violating any of the provisions of this Local Law shall be guilty of an offense and upon a conviction thereof, be given a civil penalty of no less than \$1,500.00 and no more than \$1,500.00 per day for the first violation; no less than \$7,500.00 and no more than \$7,500.00 per day for the second violation; and no less than \$15,000.00 and no more than \$15,000.00 per day for the third and all subsequent violations. Each day's violation shall constitute a separate and additional violation. An action may be commenced in a court of competent jurisdiction to recover such penalty. In addition, thereto, violations of this local law shall be subject to being restrained by injunctive relief.

Section 9.

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 10. 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 11. Inconsistent Laws.

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

Section 12. 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 13. 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, Steed, Williams, Roman
NOES: None
CARRIED.

Monthly reports were received as follows:

Town Clerk Carolyn A. Renko

Town Clerk & Dog License Fees	\$ 1,491.66
Funds Turned to State and County Agencies	<u>\$ 2,087.84</u>
	\$ 3,579.50

Receiver of Taxes

Town & County Tax Collected	\$ 332,251.05
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Code Enforcement

Fees Collected:	Building Permit Fees	\$ 864.00
	Building Permit Values	\$ 255,900.00
	Operating Permit Fees	\$ 350.00
	Site Plan Fees	\$ 75.00
	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 Steed seconded to accept the monthly reports as filed.

There was no Correspondence received.

Council Member Gunderman made a motion, Council Member Steed seconded to accept the minutes from March 8, 2022 Special Meeting and March 8, 2022 Regular Meeting.

Under Taxpayer's Comments, no one wished to speak.

RESOLUTION NO. 70-2022

APPROVING ABSTRACT OF GENERAL FUND CLAIMS

Resolution by: Hurley
Seconded by: Steed

RESOLVED, that the Abstract of General Fund Claims submitted by the Town Clerk for the month of April 2022, No. 118 through No. 174, not to exceed \$150,533.72, has been audited and approved for payment by this Town Board.

AYES: Gunderman, Hurley, Steed, Williams, Roman
NOES: None
CARRIED.

RESOLUTION NO. 71-2022

APPROVING ABSTRACT OF HIGHWAY FUND CLAIMS

Resolution by: Gunderman
Seconded by: Steed

RESOLVED, that the Abstract of Highway Fund Claims submitted by the Town Clerk for the month of April 2022, No. 51 through No. 74, not to exceed \$95,347.82, has been audited and approved for payment by this Town Board.

AYES: Gunderman, Hurley, Steed, Williams, Roman
NOES: None
CARRIED.

RESOLUTION NO. 72-2022

REAPPOINTING CAROLYN BOSSARD AS A MEMBER OF THE TOWN OF SOUTHPORT
SEWER COMMISSION

Resolution by: Williams
Seconded by: Hurley

RESOLVED, that Carolyn Bossard be and she hereby is reappointed to serve a term of three (3) years as a member of the Town of Southport Sewer Commission, said term to expire April 30, 2025.

AYES: Gunderman, Hurley, Steed, Williams, Roman
NOES: None
CARRIED.

RESOLUTION NO. 73-2022

AUTHORIZING THE SUPERVISOR TO ENTER INTO AN AGREEMENT WITH SOUTHERN TIER
COUNSELING CENTER, LLC FOR AN EMPLOYEE ASSISTANCE PROGRAM

Resolution by: Steed
Seconded by: Williams

WHEREAS, the Town of Southport and Southern Tier Counseling Center, LLC desires to enter into an agreement for services provided by their Employee Assistance Program, and

WHEREAS, the agreement provides for a cost of \$1,000.00 retainer fee/\$85.00 per employee/dependent per session.

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Southport hereby approves the agreement between the Town of Southport and Southern Tier Counseling, LLC providing services known as the Employee Assistance Program. The Town Board of the Town of Southport hereby authorizes the Supervisor to sign the contract agreement for the Employee Assistance Program commencing May 1, 2022 and terminating April 30, 2023, at a cost of \$1,000 retainer free/\$85.00 per employee/dependent per session.

AYES: Gunderman, Hurley, Steed, Williams, Roman
NOES: None
CARRIED.

RESOLUTION NO. 74-2022

DECLARING SURPLUS

Resolution by: Steed
Seconded by: Hurley

WHEREAS, the Highway Superintendent has advised this Town Board that certain highway equipment is no longer needed by the Highway Department and can be declared surplus.

NOW THEREFORE BE IT RESOLVED, that that the Town Board of the Town of Southport does hereby declare the following surplus:

1. 2004 Chevy Silverado 2500 HD Regular cab truck (VIN #1GBHK24U84E323389)

AYES: Gunderman, Hurley, Steed, Williams, Roman
NOES: None
CARRIED.

RESOLUTION NO. 75-2022

APPOINTING SANDRA COLEMAN AS ALTERNATE SCHOOL TRAFFIC OFFICER

Resolution by: Steed
Seconded by: Williams

RESOLVED, that pursuant to section 208-A of the General Municipal Law, as amended, Sandra Coleman, be and she hereby is appointed Alternate School Traffic Officer, effective April 5, 2022, and that her duties be limited to acting Alternate School Traffic Officer and assisting at school crossings prior to the opening and closing of schools.

AYES: Gunderman, Hurley, Steed, Williams, Roman
NOES: None
CARRIED.

RESOLUTION NO. 76-2022

SETTING PUBLIC HEARING

Resolution by: Hurley
Seconded by: Gunderman

RESOLVED, that the Town Board of the Town of Southport will hold a public hearing on Tuesday, May 10, 2022 at 7:00 p.m. or as soon thereafter as it can be heard, for the purpose of hearing any and all public comment regarding amendment to Chapter 525-16 Commercial Neighborhood (CN) intent, Chapter 525-17 Commercial Regional (CR) intent, and the Bulk and Density Control Schedule; Amend Chapter 525-120 (N) (4) (e) Alternative dwelling parks; Re-zone parcel on Laurentian Place; Amend Chapter 464-8 Resubdivision; and Amend Chapter 525-94 Sign requirements by use and zoning district.

AYES: Gunderman, Hurley, Steed, Williams, Roman
NOES: None
CARRIED.

Next under Discussion was ARPA funding, which will be tabled until the May 10, 2022 meeting.

RESOLUTION NO. 77-2022

AUTHORIZING SUPERVISOR TO GET QUOTES FOR INSTALLATION OF GENERATOR CONDUIT
AT TOWN HALL

Resolution by: Steed
Seconded by: Gunderman

RESOLVED, that the Supervisor be and hereby is authorized to obtain quotes for installation of Generator conduit at Town hall.

AYES: Gunderman, Hurley, Steed, Williams, Roman
NOES: None
CARRIED.

RESOLUTION NO. 78-2022

APPROVING CHANGE ORDER FOR HVAC SYSTEM UPGRADES AT TOWN HALL

Resolution by: Gunderman
Seconded by: Steed

WHEREAS, the Town of Southport entered into an Agreement with LaBella Associates for engineering services for HVAC system upgrades at Town Hall, and

WHEREAS, the Town Board did agree to certain change orders that were needed in regards to reducing the overall bid for construction, which resulted in additional charges to the Town of \$5,200.00.

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Southport in regular session duly convened, does hereby authorize the additional payment of \$5,200.00 to LaBella Associates for change orders in regards to HVAC system upgrades at Town Hall.

AYES: Gunderman, Hurley, Steed, Williams, Roman
NOES: None
CARRIED.

Under Discussion was Bicentennial Committee report. Supervisor Roman stated there would be a ribbon cutting ceremony at Memorial Park on April 16, 2022 to kick off the Bicentennial celebration.

RESOLUTION NO. 79-2022

COMMEMORATING THE 200TH ANNIVERSARY OF THE TOWN OF SOUTHPORT, NEW YORK

Resolution by: Hurley
Seconded by: Gunderman

WHEREAS, the Town of Southport, New York celebrates its Bicentennial in the year of 2022 and it is fitting to recognize the Town of Southport on the occasion of this special milestone and to applaud its distinguished history, and

WHEREAS, the Town of Southport was officially created on April 16, 1822 and has a total area of 28,969 acres.

WHEREAS, the principal manufacturing establishments of the Town included the Northern Central Railway shops, the LaFrance Manufacturing Company, the Seely Creek Mills, the Southport Mills, Seely Creek Sawmill, the Southport Tannery and the Wollen Factory.

WHEREAS, the Town of Southport will proudly mark its 200th Anniversary with a series of celebrations throughout its Bicentennial Year, beginning on April 16, 2022.

WHEREAS, in recognition of the Town of Southport's rich history and enduring contributions, it is indeed an honor to pay tribute to this Town upon the occasion of its Bicentennial, now therefore be it

RESOLVED, that congratulations are sent to the Town of Southport on their Bicentennial and the Town residents are to be enthusiastically recognized as they celebrate this auspicious occasion, and be it further

RESOLVED, that a copy of this Resolution, suitably engrossed, be transmitted to the Town of Southport Bicentennial Commission.

AYES: Gunderman, Hurley, Steed, Williams, Roman
NOES: None
CARRIED.

Under Taxpayer's Comments, no one wished to speak.

Council Member Steed made a motion, Council Member Williams seconded the motion to adjourn into executive session to discuss proposed pending or current litigation.

The meeting was adjourned to executive session at 7:48 p.m.

The meeting reconvened at 8:45 p.m.

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

The meeting was adjourned at 8:48 p.m.

Respectfully Submitted,

Carolyn A. Renko, Town Clerk