

September 8, 2020

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 September 8, 2020.

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

Others Present: Attorney Kimberlee Balok-Middaugh, Code Enforcement Officer Peter Rocchi, Town Clerk Carolyn Renko

The meeting was called to order by Supervisor Szerszen 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

**Presentation:** Jessica Verrigni, Technician, Chemung County Stormwater Coalition  
Jimmy Joe Carl, Engineer, Chemung County Soil and Water Conservation District

Monthly Reports were received as follows:

Town Clerk Carolyn A. Renko

Town Clerk and Dog License Fees	\$ 2,226.50
Fitzsimmons Lot Sales	\$ 275.00
Funds Turned to State & County Agencies	<u>\$ 12,937.50</u>
	\$ 15,439.00

Code Enforcement Office

Fees Collected	Building Permit Fees	\$ 2,420.05
	Building Permit Values	\$ 547,619.00
	Operating Permit Fees	\$ 1,015.00
	Variance Fees	\$ 75.00

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

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

Council Member Gunderman made a motion, Council Member Steed seconded to accept the minutes of August 11, 2020 Regular Meeting.

Under Correspondence, Supervisor Szerszen stated New York State Department of Conservation will perform a study of Engineer Models to update flood maps.

Under Taxpayer's Comments, Agenda and Discussion items only, the Doane's from 901 Cedar Street spoke about speeding on Leland and Cedar Streets.

RESOLUTION NO. 131-2020

APPROVING ABSTRACT OF GENERAL FUND CLAIMS

Resolution by: Steed  
Seconded by: Roman

RESOLVED, that the Abstract of General Fund Claims submitted by the Town Clerk for the month of September 2020, No. 376 through No. 421, not to exceed \$58,732.94, has been audited and approved for payment by this Town Board.

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

RESOLUTION NO. 132-2020

APPROVING ABSTRACT OF HIGHWAY FUND CLAIMS

Resolution by: Hurley  
Seconded by: Gunderman

RESOLVED, that the Abstract of Highway Fund Claims submitted by the Town Clerk for the month of September 2020, No. 138 through No. 155, not to exceed \$173,624.00, has been audited and approved for payment by this Town Board.

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

RESOLUTION NO. 133-2020

ISSUING A NEGATIVE DECLARATION UNDER SEQR FOR EVENTS CENTER USE

Resolution by: Steed  
Seconded by: Hurley

BE IT RESOLVED, pursuant to the State Environmental Quality Review Act, 6 NYCRR, Part 617.6, in regard to Local Law No. 2 of 2020, to amend Chapter 525 of the Code of the Town of Southport to include Events Center Use, the Town of Southport Town Board, County of Chemung, State of New York designates itself as lead agency, and be it further

RESOLVED, that pursuant to the State Environmental Quality Review Act the adoption of Local Law No. 2 of 2020, To Amend Chapter 525 of the Code of the Town of Southport to include Events Center Use is an Unlisted Action, and

BE IT RESOLVED, that the Town Board of the Town of Southport, County of Chemung, State of New York, finds, based on the facts and information presented, that Local Law 2 of 2020, to amend Chapter 525 of the Code of the Town of Southport to include Events Center Use will not have an adverse impact on the environment and be it further,

RESOLVED, that the Town Supervisor shall file a negative determination and that such determination be filed in accordance with SEQR, 6 NYCRR, Part 617.12.

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

RESOLUTION NO. 134-2020

LOCAL LAW #2 OF 2020  
TO AMEND CHAPTER 525 OF THE TOWN CODE OF THE TOWN OF SOUTHPORT TO  
INCLUDE EVENTS CENTER USE

Resolution by: Steed  
Seconded by: Hurley

WHEREAS, the Town of Southport wishes to amend portions of the zoning law within the Town of Southport Code to allow for an additional use of “Events Center” to accommodate private gatherings and events; and

WHEREAS, the proposed amendments to the zoning law were reviewed by the Town of Southport Planning Board and approved with recommendations accepted by the Town Board; and

WHEREAS, that the Town of Southport Town Board referred Local Law No. 2 of 2020, To Amend Chapter 525 of the Code of the Town of Southport to include Events Center Use to the Chemung County Planning Board pursuant to NYS General Municipal Law Section 239-m, whereby approval was received; and

WHEREAS, this proposed Local Law No. 2 of 2020, To Amend Chapter 525 of the Code of the Town of Southport To Include Events Center Use, 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 August 11, 2020 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. 2 of 2020, To Amend Chapter 525 of the Code of the Town of Southport To Include Events Center Use, to wit:

**LOCAL LAW # 2 of 2020**  
**TO AMEND CHAPTER 525 OF THE CODE OF THE TOWN OF SOUTHPORT TO INCLUDE**  
**EVENTS CENTER USE**

Be it enacted by the Town Board of the Town of Southport as follows:

**Amendment of Southport Town Code.** Chapter 525, Zoning is hereby amended to add the following [additions in *italics*]:

**Section I.**

**§ 525-5 Definitions.**

**Events Center.** *The use of land or structures for private gatherings and events not open to the general public, such as, but not limited to, weddings, parties, and other similar events, where compensation is paid to the property owner for said use.*

**§ 525-20 Use Regulation Table.**

*[Note: The Use Regulation Table shall be amended to add the events center use, indicating that it is allowed by special use permit in the AR, CN, and CR districts, and not allowed in any other zoning districts.]*

**§ 525-128.1. Events Center**

A. *Restrictions. The following uses shall not be permitted at an events center:*

- (1) Concerts and/or live outdoor music performances, except that live outdoor music performances may be allowed in the AR district if included in an events center management plan approved by the Planning Board pursuant to the requirements of this section.*
- (2) Overnight lodging or camping.*
- (3) Drive-in movie theater.*
- (4) Wine or beer tasting facility. A wine or beer tasting facility does not include the service of alcoholic beverages incidental to an approved events center use.*
- (5) Any other use, as determined by the Code Enforcement Officer, that does not constitute an events center use.*

B. *General Requirements. An events center use may be permitted when an approved site plan documents compliance with the following minimum requirements:*

- (1) A minimum lot size of 3 acres is required for an events center.*
- (2) A minimum buffer of fifty (50) feet in width shall be maintained between an events center use and the lot line of an adjoining lot containing a residential use, and a minimum buffer of fifty (50) feet in width shall be maintained between an events center use and the lot line of all other adjoining lots. Appropriate landscaping shall be included within buffer. No structure, vendor, storage area, sanitary or toilet facility, or parking area shall be permitted within this buffer.*
- (3) No materials related to an events center use shall be stored outside a building, except for garbage and rubbish. Any outdoor storage of garbage and rubbish incidental to the events center use shall be only in suitable containers and shall be:
  - (a) Screened from view from any adjoining lot or roadway by a barrier in accordance with § 525-111 and at least eight feet in height as measured from finished grade; and*
  - (b) Located in accordance with a design approved in a site plan.**

*This subsection shall not apply to a trash can or similar receptacle placed outside during an event to receive garbage or rubbish from attendees.*

*(4) Noise and sound requirements.*

- (a) Sound levels generated by an events center use shall be no greater than 70 decibels as measured at the boundaries of the lot occupied by the use creating noise during events. Sound levels shall also comply with § 525-119.*
- (b) An outdoor sound or public-address system shall not be permitted in the CN or CR district. Unless specifically approved in a site plan, an outdoor sound or public-address system shall not be permitted for an events center in the AR district.*

*(5) Operating hours of the events center shall be limited to the hours between 8:00 a.m. and 10:00 p.m.. For purposes of this section, all events must terminate by 10:00 pm, meaning all food, drinks, service and entertainment must end by 10:00 pm. It is understood that attendees and servers and their vehicles shall have a reasonable amount of time thereafter to vacate the premises, provided, however, that all attendees and servers and their vehicles shall have vacated the premises and the events center's lighting shall be extinguished by no later than 11:00 p.m., except for lighting ordinarily used for (i) security or safety purposes, or (ii) lighting used in the ordinary course of property use not related to the events center use.*

*(6) Parking.*

*(a) No on-road parking associated with the events center use is permitted.*

*(b) The parking area of an events center shall meet the requirements of the Americans with Disabilities Act (ADA) and the applicable provisions of § 525-71. This requirement shall not preclude the events center from utilizing shuttle buses or other methods of guest transportation.*

*(7) Sanitary facility requirement.*

*(a) An events center shall provide for adequate and safe public restroom and/or toilet facilities in accordance with the requirements of the New York State Department of Health and the New York State Uniform Fire Prevention and Building Code.*

*(b) Temporary and/or portable restrooms associated with an events center use shall not be permitted in the CN or CR districts. Temporary and/or portable restrooms shall not be permitted in the AR district unless approved in a site plan. When temporary and/or portable restrooms are used to comply with this subsection, no fewer than four shall be provided.*

*(8) Lighting.*

*(a) Outdoor lighting shall comply with § 525-117.*

*(b) Outdoor lights in connection with an events center use, except for those ordinarily used for security and safety purposes or in the ordinary course of property use not related to the events center use, shall be extinguished by no later than 11:00 p.m..*

*(c) A lighting plan, including the criteria in § 525-117(B), and any other criteria deemed appropriate by the Planning Board, shall be set forth in the events center management plan.*

*(9) Signage.*

*(a) Signs shall comply with § 525-90 through § 525-96.*

*(10) Tents.*

*(a) There shall be no more than a total of 200 square feet of space under a tent or tents associated with an events center use, unless additional square footage is approved in a site plan.*

*C. Events center management plan.*

*(1) Each events center shall require an events center management plan. Such plan shall include plans related to parking and traffic management, hours of operation, noise abatement, lighting, sanitary facilities, and identification of and contact information for emergency services. Such plan shall be incorporated into the special use permit and site plan approval.*

*D. Additional Provisions.*

*(1) A special use permit for an events center shall not be transferable. The provisions of § 525-159(B) providing for the transfer of special use permits to successive property owners shall not apply to special use permits for events center uses.*

*(2) Special use permit conditions. Each special use permit for an events center shall include, but shall not be limited to, conditions providing the following:*

*(a) The special use permit for an events center shall establish the maximum occupancy for such events center.*

*(b) The special use permit for an events center shall establish the maximum frequency of events permitted (e.g., number of events per year, month, week, etc.).*

*(c) Any other conditions deemed appropriate by the Planning Board, including but not limited to those on operation, design and layout reasonably necessary to ensure compatibility with surrounding uses.*

*E. Individual events and subsequent review.*

*(1) Notwithstanding § 525-128.1(C)(1) and § 525-159 of this chapter, once a special use permit has been granted to permit an events center at a particular site, individual events may be held at the site without further review by the Planning Board so long as such events comply with the limitations in the events center management plan and special use permit.*

**§ 525-159 Special use permit expiration, revocation and enforcement.**

*B. All special use permits shall run with the land and will be transferred to successive property owners, provided the permit has not expired and it is not revoked for failure to meet the permit conditions. This section shall not apply to special use permits for events center uses. A new owner of a property that had been the subject of a special use permit for an events center shall not use the property as an events center without first applying for and obtaining a new special use permit.*

**Section II. Severability.**

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

**Section III. Repeal Prior Laws**

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

**Section IV. Authority**

This local law is enacted by the Town Board pursuant to its authority to adopt local laws under Article IX of the New York State Constitution, Municipal Home Rules Law § 10 and Town Law § 264.

**Section III. Effective Date.**

This Local Law shall take effect upon adoption, publication and filing in the Office of the New York State Secretary of State in accordance with Municipal Home Rule Law and Town Law.

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

RESOLUTION NO. 135-2020

ACCEPTING RESIGNATION OF DONALD MONTGOMERY AS PERMANENT SCHOOL TRAFFIC OFFICER

Resolution by: Roman  
Seconded by: Gunderman

WHEREAS, Donald Montgomery has submitted his resignation as Permanent School Traffic Officer effective September 8, 2020.

NOW THEREFORE BE IT RESOLVED, that this Town Board hereby accepts the resignation of Donald Montgomery as Permanent School Traffic Officer.

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

RESOLUTION NO. 136-2020

APPOINTING BRIAN STANTON AS PERMANENT SCHOOL TRAFFIC OFFICER

Resolution by: Steed  
Seconded by: Roman

RESOLVED, that pursuant to Section 208-A of the General Municipal Law, as amended, Brian Stanton be and he hereby is appointed Permanent School Officer, effective September 9, 2020, and that his duties be limited to acting permanent School Traffic Officer and assisting at school crossings prior to the opening and closing of schools.

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

RESOLUTION 137-2020

AUTHORIZING SUPERVISOR TO ENTER INTO AN AGREEMENT WITH TROY & BANKS, INC. TO REVIEW UTILITY BILL CHARGES

Resolution by: Roman  
Seconded by: Gunderman

WHEREAS, the Town of Southport wishes to enter into an Agreement with Troy & Banks, Inc., for services relating to review of utility bill charges.

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 enter into an Agreement with Troy & Banks, Inc., for services related to review of utility bill charges.

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

RESOLUTION NO. 138-2020

SETTING PUBLIC HEARING

Resolution by: Steed  
Seconded by: Gunderman

RESOLVED, that the Town Board of the Town of Southport will hold a public hearing on Tuesday, October 13, 2020 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 Local Law No. 4 of 2020, to Override Tax Levy Limit for taxable 2021 year established in General Municipal Law.

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

RESOLUTION NO. 139-2020

FUNDING ALL SCHOOL TRAFFIC OFFICERS AND ALTERNATE SCHOOL TRAFFIC OFFICER POSITIONS

Resolution by: Gunderman  
Seconded by: Roman

WHEREAS, in response to the COVID-19 pandemic, the State of New York and the County of Chemung declared states of emergency, along with New York State Executive Order No. 202 and its progeny, thereby resulting in the closure of all schools and non-essential businesses and placing numerous restrictions on public and social interactions, and

WHEREAS, due to the negative financial impact of the COVID-19 pandemic, the Town of Southport, in an effort to cut costs, furloughed certain nonessential employees, and

WHEREAS, due to the opening of schools, the Town of Southport wishes to recall school traffic officers to perform their duties, and

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Southport, County of Chemung, State of New York, on September 9, 2020 hereby returns to funding the positions listed as follows: all school traffic officers and all school traffic officer alternates. Therefore, employees encumbering these positions will no longer be furloughed (off work without pay or benefits) and will return to performing their duties on September 9, 2020.

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

Under Discussion was Autumnview Estates Sketch Plan, which will be tabled until the October 13, 2020 meeting.

RESOLUTION NO. 140-2020

SETTING PUBLIC HEARING

Resolution by:       Steed  
Seconded by:       Gunderman

RESOLVED, that the Town Board of the Town of Southport will hold a public hearing on Tuesday, October 13, 2020 at 7:15 p.m., or as soon thereafter as it can be heard, for the purpose of hearing any and all public comment regarding Chapter 497, Winter Parking.

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

RESOLUTION NO. 141-2020

SETTING PUBLIC HEARING

Resolution by: Roman  
Seconded by: Gunderman

RESOLVED, that the Town Board of the Town of Southport will hold a public hearing on Tuesday, October 13, 2020 at 7:30 p.m., or as soon thereafter as it can be heard, for the purpose of hearing any and all public comment regarding Local Law No. 5 of 2020, Cold War Veterans Exemption.

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

RESOLUTION NO. 142-2020

ACCEPTANCE OF AN AGREEMENT WITH FAGAN ENGINEERS FOR ENGINEERING SERVICES FOR THE  
LELAND AREA PAVEMENT RECONSTRUCTION

Resolution by: Roman  
Seconded by: Steed

WHEREAS, the Town Board of the Town of Southport is requesting assistance in providing planning advisory services related to the Leland Area Pavement Reconstruction Project.

WHEREAS, Fagan Engineers has submitted a proposal to provide assistance in relation to Engineering Services in the planning, design and construction bid administration tasks required for the implementation of this pavement project.

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Southport does hereby select Fagan Engineers of Elmira, New York, as the firm to provide for the Engineering Services for the Leland Area Pavement Reconstruction Project, and be it further

RESOLVED, that the services to be provided shall be those set forth in the proposal submitted by Fagan Engineers, and be it further

RESOLVED, that the Supervisor of the Town of Southport is hereby authorized and directed to enter into an agreement with Fagan Engineers for the provision of these services at a cost not to exceed TWENTY THOUSAND DOLLARS AND 00/100 (\$20,000.00), and be it further

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

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

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

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

The meeting was adjourned at 8:13 p.m.

Respectfully Submitted,

Carolyn A. Renko, Town Clerk