

August 10, 2021

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 August 10, 2021.

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

Member joined remotely: Council Member Timothy Steed

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

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

7:00 p.m. – Presentation from Sheriff Bill Schrom

Monthly reports were received as follows:

Town Clerk Carolyn A. Renko

Town Clerk & Dog License Fees	\$ 2,233.71
Fitzsimmons Lot Sales	\$ 1,100.00
Funds Turned to State and County Agencies	<u>\$ 868.79</u>
	\$ 4,202.50

Code Enforcement Office

Fees Collected:	Building Permit Fees	\$ 1,990.00
	Building Permit Values	\$ 1,171,147.00
	Operating Permit Fees	\$ 150.00
	Site Plan Fees	\$ 75.00
	Variance Fees	\$ 150.00

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.

There was no Correspondence received.

Council Member Gunderman made a motion, Council Member Steed seconded to accept the minutes from July 6, 2021 Special Meeting, July 13, 2021 Regular Meeting, and July 27, 2021 Special Meeting.

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

RESOLUTION 124-2021

APPROVING ABSTRACT OF GENERAL FUND CLAIMS

Resolution by: Roman  
Seconded by: Gunderman

RESOLVED, that the Abstract of General Fund claims submitted by the Town Clerk for the month of August 2021, No. 340 through No. 397, not to exceed \$96,631.03, has been audited and approved for payment by this Town Board.

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

RESOLUTION NO. 125-2021

APPROVING ABSTRACT OF HIGHWAY FUND CLAIMS

Resolution by: Gunderman  
Seconded by: Hurley

RESOLVED, that the Abstract of Highway Fund Claims submitted by the Town Clerk for the month of August 2021, No. 160 through No. 176, not to exceed \$98,035.62, has been audited and approved for payment by this Town Board.

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

RESOLUTION NO. 126-2021

APPROVING ABSTRACT OF LIGHT FUND CLAIM

Resolution by: Gunderman  
Seconded by: Roman

RESOLVED, that the Abstract of Light Fund Claim submitted by the Town Clerk for the month of August 2021, No. 7, not to exceed \$7,902.13, has been audited and approved for payment by this Town Board.

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

RESOLUTION NO. 127-2021

AUTHORIZING PURCHASE OF GASOLINE AT STATE BID PRICE

Resolution by: Gunderman  
Seconded by: Roman

RESOLVED, that the Highway Superintendent be and he hereby is authorized to purchase gasoline at the established New York State bid contract price.

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

RESOLUTION NO. 128-2021

AUTHORIZING SUPERVISOR AND TOWN JUSTICES TO APPLY FOR A 2021 JUSTICE COURT ASSISTANCE PROGRAM GRANT

Resolution by: Roman  
Seconded by: Gunderman

WHEREAS, the Chief Administrative Judge is entertaining applications for the next cycle of Justice Court Assistance Program Grants to assist in the operation of their Justice Courts, and

WHEREAS, the Town of Southport Town Justices are requesting up to the maximum amount available to the Town Justice Court to assist in the operation of their Justice Court,

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Southport does hereby authorize the Supervisor and the Town Justices to apply for a 2021 Justice Court Assistance Program Grant up to THIRTY THOUSAND DOLLARS (\$30,000.00), and be it further

RESOLVED, that in the event such grant is awarded to the Town of Southport, the Supervisor and Town Justices are hereby authorized and directed to accept such grant funds on behalf of the Town of Southport and to execute any documents necessary to allow the Town to accept such grant funds.

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

RESOLUTION NO. 129-2021

SETTING DATES FOR TOWN BOARD MEETINGS

Resolution by:       Gunderman  
Seconded by:       Hurley

RESOLVED, that pursuant to Section 62 of the Town Law, as amended, that the Annual Meeting of the Town Board of the Town of Southport for the year 2021, insofar as the same is required, be held on December 29, 2021, and be it further

RESOLVED, that the date of the Organizational Meeting of the Town Board of the Town of Southport for the year 2022, insofar as the same is required, be held on January 3, 2022, and be it further

RESOLVED, that the Tentative Budget Special Meeting be held on September 21, 2021, and the Preliminary Budget Public Hearing and Special Meeting be held on November 3, 2021, and be it further

RESOLVED, that said meetings will be held at the Town Hall, 1139 Pennsylvania Avenue in the Town of Southport.

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

RESOLUTION NO. 130-2021

AUTHORIZING TOWN BOARD TO APPROVE THE PROPOSED NAME OF A STREAM AND POND ALONG STROUSE ROAD AS NEWT POND AND NEWT POND RUN AND AUTHORIZING SUPERVISOR TO COMPLETE THE RECOMMENDATION FORM AND ANY RELATED DOCUMENTATION FOR THE APPROVAL OF SAID NAMES

Resolution by:           Gunderman  
Seconded by:           Roman

WHEREAS, the US Board on Geographic Names is seeking input for the proposal of names for a stream and pond along Strouse Road in the Town of Southport. The names being proposed are Newt Pond and Newt Pond Run.

RESOLVED, that the Town Board of the Town of Southport hereby approves the proposed names of Newt Pond and Newt Pond Run and further authorizes the Town Supervisor to complete the recommendation form and any related documentation for the approval of said names.

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

RESOLUTION 131-2021

ORDERING DEMOLITION AND REMOVAL OF A DANGEROUS AND UNSAFE BUILDING AT 656 SPRUCE STREET

Resolution by:           Roman  
Seconded by:           Gunderman

WHEREAS, the Town Board of the Town of Southport held a public hearing on July 13, 2021, regarding the demolition of the unsafe structure at 656 Spruce Street in accordance with the Town of Southport Code Chapter 234; and

WHEREAS, on July 13, 2021, Jamar McDowell appeared before the Town Board of the Town of Southport and informed the Town Board of his current interest in purchasing and rehabilitating the property located at 656 Spruce Street, and

WHEREAS, the Town Board of the Town of Southport, after further deliberation, resolved that Mr. McDowell was allowed additional time to submit the land contract along with proof of ownership of said property, show progress in repairing said property and removing water from the basement of said property, and all such requirements were to take place on or before the Town Board meeting on August 10, 2021, and the Town Board further stated that Mr. McDowell was to appear before the Town Board at the August 10, 2021, meeting, and

WHEREAS, Code Officer, Peter Rocchi, reported to the Town Board at this meeting on August 10, 2021, that Mr. McDowell did not follow through with sufficient progress in repairing the property and Mr. McDowell failed to appear before the Town Board as requested;

NOW THEREFORE BE IT RESOLVED, that in accordance with the Town of Southport Town Code Chapter 234, Buildings, Unsafe, Article I, and the Town Board of the Town of Southport, County of Chemung, State of New York, after due deliberation, hereby determines to continue the order declaring the structure located at 656 Spruce Street, Elmira, New York, to be unsafe to the public and after allowing the owner and Mr. McDowell, who claims to be an interested party, sufficient time in accordance with Chapter 234 of the Town of Southport Code to secure, repair, or remove the structure, the Town of Southport Town Board orders the Town Code Officer to arrange to have said structure located at 656 Spruce Street, Elmira, New York 14904 to be secured, demolished, and removed, and the related costs, including allowable administrative costs, shall be assessed against the land on which the structure is located at the same time and same manner as the general Town taxes in accordance with the Town of Southport Town Code Chapter 234, Article I, Section 234-8.

AYES: Gunderman, Hurley, Roman, Steed, Szerszen

NOES: None

CARRIED.

Under Discussion was update on 759 Spruce Street. Code Enforcement Officer Pete Rocchi stated that everything is in order to proceed with the demolition, now just waiting on a date from the contractor.

RESOLUTION NO. 132-2021

PROPOSED LOCAL LAW NO. 2 OF 2021

OPTING OUT OF LICENSING AND ESTABLISHING RETAIL CANNABIS DISPENSARIES AND ON-SITE  
CANNABIS CONSUMPTION ESTABLISHMENTS

Resolution by: Gunderman

Seconded by: Roman

WHEREAS, the Town of Southport Town Board wishes to adopt a local law to opt out of licensing and establishing retail cannabis dispensaries and on-site cannabis consumption establishments within the Town of Southport;

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Southport, County of Chemung, State of New York hereby schedules a public hearing for Local Law No. 2 of 2021 as set forth herein on September 14, 2021, at 7:00 p.m., or as soon thereafter as it can be heard, at the Town of Southport Town Hall located at 1139 Pennsylvania Avenue, Elmira New York 14904 and said Local Law is as follows:

PROPOSED LOCAL LAW NO. 2 OF 2021

OPTING OUT OF LICENSING AND ESTABLISHING RETAIL CANNABIS DISPENSARIES AND ON-SITE  
CANNABIS CONSUMPTION ESTABLISHMENTS

Section 1. Legislative Intent

It is the intent of this local law to opt the Town of Southport out of hosting retail cannabis dispensaries and on-site cannabis consumption establishments within its boundaries.

Section 2. Authority

This local law is adopted pursuant to Cannabis Law § 131, which expressly authorizes towns to opt out of allowing retail cannabis dispensaries and on-site cannabis consumption establishments to locate and operate within their boundaries, provided, however, that any town law shall apply to the area outside any village within such town.

Section 3. Local Retail Cannabis Dispensaries and On-site Cannabis Consumption Opt-Out

The Town Board of the Town of Southport, County of Chemung, State of New York, hereby opts out of licensing and establishing retail cannabis dispensaries and on-site cannabis consumption establishments within its boundaries.

Section 4. 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 5. Effective Date

This local law shall take effect immediately upon filing with the Secretary of State. Pursuant to Cannabis Law § 131, this local law is subject to a permissive referendum and thus may not be filed with the Secretary of State until the applicable time period has elapsed to file a petition or a referendum has been conducted approving this local law.

AYES: Gunderman, Hurley, Roman, Steed, Szerszen

NOES: None

CARRIED.

Next under Discussion was the Committee to plan activities commemorating the Town's Bicentennial in 2022. Council Member Joseph Roman will chair this committee.

RESOLUTION 133-2021

ESTABLISHING A COMMITTEE TO REVIEW RECOMMENDATION FROM CODE ENFORCEMENT TO AMEND CHAPTER 525-16 COMMERCIAL NEIGHBORHOOD (CN) INTENT, CHAPTER 525-17 COMMERCIAL REGIONAL (CR) INTENT AND THE BULK AND DENSITY CONTROL SCHEDULE

Resolution by: Roman  
Seconded by: Hurley

WHEREAS, the Town of Southport Code Enforcement is recommending amendment to Chapter 525-16 Commercial Neighborhood (CN) intent, Chapter 525-17 Commercial Regional (CR) intent, and the Bulk and Density Control Schedule.

NOW THEREFORE BE IT RESOLVED, that a committee be established with representatives from Town of Southport Town Board, Planning Board and Zoning Board of Appeals, to review these amendments and make a recommendation.

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

Next under Discussion was American Rescue Plan. Supervisor Szerszen gave an update to the Board.

Also under Discussion was Zoning Board of Appeals request for Town Board review of Town Code § 525-5 Agriculture Use Definitions and §525-7D Agriculture Use, Personal. The Board had a lengthy discussion regarding this and was in agreement that no changes are needed at this time.

RESOLUTION NO. 134-2021

AUTHORIZING DEMOLITION AND REMOVAL OF TWO UNSAFE STRUCTURES AT CHERRY LANE PARK, LLC LOCATED AT 1170 SHERMAN AVENUE

Resolution by: Gunderman  
Seconded by: Hurley

WHEREAS, the Code Officer of the Town of Southport, Peter Rocchi, reported to the Town of Southport Town Board that structures located on Lots 5 and 6 at 1170 Sherman Avenue, Elmira, New York 14904, the mobile home park owned by Cherry Lane Park, LLC, were damaged by a fire and the owner of said park has failed to sufficiently remediate the damaged structures, thereby creating an immediate danger to the life and safety of the public;



NOW THEREFORE BE IT RESOLVED, that the Town of Southport Town Board, County of Chemung, State of New York, acknowledges receipt of the Code Department report dated August 5, 2021, regarding the mobile home park located at 1170 Sherman Avenue, Elmira, New York 14904, owned by Cherry Lane Park, LLC, and more specifically, Lots 5 and 6 at this location, whereby such report states that mobile homes located at Lots 5 and 6 were severely damaged by a fire and create an imminent danger to the life and safety of the public, and whereby the Town of Southport Code Department has ordered the owner, Cherry Lane Park, LLC, to remediate the damaged mobile homes and the owner has failed to do so, the Code Department is requesting that the Town Board authorize immediate demolition and removal of the unsafe structures located at said location in accordance with Chapter 234, Buildings, Unsafe, Article II, Emergencies, Section 234-9, and be it further

RESOLVED, that the Town of Southport Town Board confirms the findings of the Code Department as reported at the Town Board meeting held on August 10, 2021, and in the report dated August 5, 2021, that the damaged structures located at 1170 Sherman Avenue, Elmira, New York 14904, Lots 5 and 6, at the mobile home park owned by Cherry Lane Park, LLC, create an immediate danger to the life and safety of any person or property, and orders the Town Code Officer to demolish and remove the dangerous structures located at Lots 5 and 6 in accordance with Chapter 234, Article II, Section 234-9 of the Code of the Town of Southport and any related debris of the unsafe structures, and the cost of such emergency removal, including allowable administrative costs, shall be assessed against the land on which the structures are located at the same time and in the same manner as general Town taxes in accordance with the Town of Southport Town Code Chapter 234, Article I, Section 234-8.

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

RESOLUTION NO. 135-2021

DENYING THE APPLICATION OF CHERRY LANE PARK, LLC, FOR ASSIGNMENT OF A LOCAL  
MOBILE HOME PARK LICENSE

Resolution by:       Roman  
Seconded by:       Gunderman

WHEREAS, the Town of Southport Town Code Department submitted to the Town Board a memorandum dated August 10, 2021, in regard to the mobile home park located at 1170 Sherman Avenue, Elmira, New York 14904 owned by Cherry Lane Park, LLC, whereby the said memorandum explains that the owner of the mobile home park failed to meet certain requirements to obtain the operating license which is required to be assigned after the purchase of said park and requests the Town Board to take action in regard to the park owner's failure to operate with a proper license;

NOW THEREFORE BE IT RESOLVED, that the Town of Southport Town Board, County of Chemung, State of New York, hereby acknowledges receipt of the Code Department's memorandum dated August 10, 2021, in regard to the mobile home park located at 1170 Sherman Avenue, Elmira, New York 14904, owned by Cherry Lane Park, LLC, regarding said owner's failure to properly obtain the assignment of an operating license; and after due deliberation and further input from the Code Officer, Peter Rocchi, the Town Board denies the application of Cherry Lane Park, LLC, for assignment of a local mobile home park license due to numerous inefficiencies and violations as stated in the memorandum dated August 10, 2021, from the Code Department; and be it further

RESOLVED, that prior to revocation of Cherry Lane Park, LLC's right to operate, said owner shall be allowed due process as set forth in Town of Southport Town Code Chapter 352, Mobile Homes and Mobile Home Parks., Section 352-10, and thereby acknowledging the Code Department's authority to refer said matter to the Board for a hearing as set forth in Section 352-10 of the Code of the Town of Southport.

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

Under Taxpayer's Comments, Dan Williams from 148 Mt. View Drive commented on the Southport Resident Deputy and budget process and zoning changes.

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

The meeting was adjourned at 8:50 p.m.

Respectfully Submitted,

Carolyn A. Renko, Town Clerk