

February 8, 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 February 8, 2022.

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

Others Present: Attorney Kimberlee Balok-Middaugh, Code Enforcement Officer Peter Rocchi, 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.

Monthly Reports were received as follows:

Town Clerk Carolyn A. Renko

Town Clerk & Dog License Fees	\$ 1,463.87
Fitzsimmons Lot Sales	\$ 1,200.00
Funds Turned to State and County Agencies	<u>\$ 266.63</u>
	\$ 2,930.50

Receiver of Taxes

Town and County Tax Collected	\$ 4,444,540.37
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Code Enforcement Office

Fees Collected:	Building Permit Fees	\$ 990.00
	Building Permit Values	\$ 285,850.00
	Operating Permit Fees	\$ 600.00
	Site Plan Fees	\$ 150.00
	Variance Fees	\$ 150.00

Justice Office

Recreation/Aging/Youth Services

Residential Deputy

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

2021 ANNUAL REPORT OF THE TOWN CLERK:

NYS Dept. of Agriculture & Markets for Dog Licenses	\$ 2,086.00
NYS Dept. of Environmental Conservation (DEC) for Conservation Licenses	\$ 36,972.50
NYS Dept. of Health for Marriage Licenses	\$ 697.50
Supervisor for Dog License & Clerk Fees	\$ 16,547.00
Supervisor for Fitzsimmons Cemetery	\$ <u>8,850.00</u>
SUBTOTAL	\$ 65,153.00

RECEIVER OF TAXES:

Total Tax Collected:	\$ 5,180,829.22
Total Penalty Collected:	\$ 7,580.99
Total Surcharge/Interest Collected:	\$ 0.00
Total Notice Fees Collected:	\$ 320.00
Total Duplicate & Overpayments:	\$ 2,273.20
Total Returned Check Fees:	\$ 0.00
TOTAL	\$ 5,191,003.41

Total Direct Payments:	\$ 0.00
Total Bounced Checks:	\$ 3,176.79
Total Refunded/Applied Overpayments:	\$ 2,273.20
Disbursements to Supervisor:	\$ 1,698,255.59
Disbursements to County:	\$ 3,487,297.83
Other Disbursements:	\$ 0.00
Bank Service Charges:	\$ 0.00
TOTAL:	\$ 5,191,003.41

Other Adjustments: \$ 0.00

Bank Balance: \$ 0.00

2021 FITZSIMMONS CEMETERY EXTESION REPORT:

29 graves were sold during 2021 for a total of \$8,850.00.

CODE ENFORCEMENT OFFICER 2021 ANNUAL REPORT:

Permit & Site Plan Fees:	\$ 17,550.00
Building Permit Values:	\$ 4,657,943.00
Operating Permit Fees:	\$ 3,770.00
Special Use Permit Fees:	\$ 75.00
Variance Fees:	\$ 525.00

The following were issued and completed: 346 total building permits; 1 New Home; 41 Fire Inspections/OP Permits; 352 Compliance Certificates; 560 Building Inspections; 90 Unlicensed Vehicles; 90 Garbage/Rubbish; 18 Vendor Cleaned Up; 190 High grass; 88 Vendor Mowed, 5 Burning Violations; 2 Swimming Pool Violations; 84 NYS and Misc. Violations; 2 Appearance Tickets; 5 Logging Registrations; 1 Special Use Permit; 18 Site Plan Applications; 7 Variance Applications; 8826 Miles Driven; 1845 Complaints/Inquires.

2021 YEAR END YOUTH SERVICES/RECREATION/SENIOR CITIZEN REPORT:

Approximately 3,684 sign-in's/participants/users at the Chapel Park Community Center, including those who came to weekly and monthly activities, meetings, special events, elections, gatherings and rentals. The Chapel Park Community Center was rented 15 times for a total of \$2,260.00 (see attached).

TOWN JUSTICE STEVEN MILFORD 2021 ANNUAL REPORT:

Total Collected by Justice Milford	\$ 45,581.00
Amount Forwarded to Town of Southport Fiscal Officer	\$ 45,581.00
Bail Pending	\$ 2,041.00
Total Kept by the Town (both Judges)	\$ 23,439.00

TOWN JUSTICE JOSEPH W. HOLLY 2021 ANNUAL REPORT:

Total Collected by Justice Holly	\$ 45,178.00
Amount Forwarded to Town of Southport Fiscal Officer	\$ 45,178.00
Bail Pending	\$ 4,391.00
Total Kept by the Town (both Judges)	\$ 23,439.00

Council Member Gunderman made a motion, Council Member Steed seconded to accept the Annual Reports as filed.

Under Correspondence, Supervisor Roman read a thank-you note to the Town on how well the distribution of the COVID test kits went at Chapel Park. Supervisor Roman also read a note from a resident to the Highway Department thanking them on a job well done during the recent snow storm.

Council Member Hurley made a motion, Council Member Williams seconded to accept the minutes from January 11, 2022 Regular Meeting.

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

RESOLUTION NO. 36-2022

APPROVING ABSTRACT OF GENERAL FUND CLAIMS #14 OF 2021 AND #2 OF 2022

Resolution by: Gunderman
Seconded by: Steed

RESOLVED, that the abstract of General Fund Claims #14 of 2021, submitted by the Town Clerk, No. 666 through 671, not to exceed \$14,743.36 and General Fund Claims #2 of 2022, submitted by the Town Clerk, No. 31 through No. 66, not to exceed \$57,419.51, have been audited and approved for payment by this Town Board.

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

RESOLUTION NO. 37-2022

APPROVING ABSTRACT OF HIGHWAY FUND CLAIMS #14 OF 2021 AND #2 OF 2022

Resolution by: Steed
Seconded by; Hurley

RESOLVED, that the abstract of Highway Fund Claims #14 of 2021, submitted by the Town Clerk, No. 270 through No. 272, not to exceed \$3,826.83 and Highway Fund Claims #2 of 2022, submitted by the Town Clerk, No. 5 through No. 26, not to exceed \$102,135.33.

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

RESOLUTION NO. 38-2022

APPROVING ABSTRACT OF FIRE FUND CLAIMS

Resolution by: Hurley
Seconded by: Gunderman

RESOLVED, that the abstract of Fire Fund Claims submitted by the Town Clerk for the month of February, No. 1 through 6, not to exceed \$692,711.00, has been audited and approved for payment by this Town Board.

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

RESOLUTION NO. 39-2022

APPROVING ABSTRACT OF LIGHT FUND CLAIM

Resolution by: Williams
Seconded by: Steed

RESOLVED, that the Abstract of Light Fund Claim submitted by the Town Clerk for the month of February, No.1, not to exceed \$11,044.72, has been audited and approved for payment by this Town Board.

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

RESOLUTION NO. 40-2022

ACCEPTING PROPOSAL OF ACTUARIAL RETIREMENT CONSULTING (ARC) TO PREPARE GASB 75 REPORT

Resolution by: Steed
Seconded by: Williams

RESOLVED, that the Supervisor is authorized to enter into an Agreement with Actuarial Retirement Consulting (ARC) to prepare the GASB 75, at a cost not to exceed THREE THOUSAND FIVE-HUNDRED DOLLARS (\$3,500.00).

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

RESOLUTION NO. 41-2022

RATIFYING APPOINTMENT OF EDWARD WALT HARRIS, JR. AS A MEMBER OF THE TOWN OF SOUTHPORT CEMETERY COMMISSION

Resolution by: Hurley
Seconded by: Gunderman

RESOLVED, that Edward Walt Harris, Jr. be and he hereby is appointed as a member of the Town of Southport Cemetery Commission, said term to expire November 1, 2024.

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

RESOLUTION NO. 42-2022

AUTHORIZING SUPERVISOR TO ENTER INTO AN AGREEMENT WITH FAGAN ENGINEERS FOR PROFESSIONAL ENGINEERING SERVICES FOR THE FAIRWAY-PHOENIX AREA SANITARY SEWER PROJECT

Resolution by: Williams
Seconded by: Hurley

WHEREAS, the Town of Southport Town Board is requesting assistance in providing Engineering Services related to the Fairway-Phoenix Area Sanitary Sewer Project, and

WHEREAS, Fagan Engineers has submitted a proposal to provide engineering services in relation to the Fairway-Phoenix Area Sanitary Sewer 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 Fairway-Phoenix Area Sanitary Sewer Project, and be it further

RESOLVED, that the services shall be set forth in the Agreement 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 ONE HUNDRED NINETY THOUSAND AND 00/100 (\$190,000.00), 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, Steed, Williams, Roman
NOES: None
CARRIED.

RESOLUTION NO. 43-2022

ACCEPTING PROPOSAL FROM FAGAN ENGINEERS TO WRITE A NYS EFC WASTEWATER INFRASTRUCTURE PLANNING GRANT FOR THE MT. ZOAR AREA SANITARY SEWER PROJECT

Resolution by: Steed
Seconded by: Williams

WHEREAS, THE Town of Southport is requesting grant writing assistance for the Mt. Zoar Area Sanitary Sewer District Extension Project.

WHEREAS, Fagan Engineers has submitted a proposal to develop and submit the Consolidated Funding Application (CFA) request for funding under the DEC/EFC Engineering Planning Grant (EPG) Program for the Mt. Zoar Area Sanitary Sewer District Extension Project.

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Southport does hereby authorize Fagan Engineers to provide these services, 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 ONE THOUSAND DOLLARS AND 00/100 (\$1,000.00), 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, Steed, Williams, Roman

NOES: None

CARRIED.

RESOLUTION NO. 44-2022

RECOGNIZING DANNY JOE HOUSTON FOR HIS DEDICATED YEARS OF SERVICE AS A
VOLUNTEER FIREFIGHTER

Resolution by: Hurley
Seconded by; Gunderman

WHEREAS, Danny Joe Houston joined the Southport Volunteer Fire Department in 1970 and has served his community as a member of the Southport Volunteer Fire Department for over 50 years.

WHEREAS, as a volunteer he not only gives his time to respond to emergencies, but he also commits himself to hours of training in order to better serve the public in their time of need; and

WHEREAS, this firefighter has exemplified all the attributes of a selfless human being foregoing his own wants, needs and desires in order to serve the residents and businesses of the Town of Southport.

NOW THEREFORE, I Joseph Roman, Supervisor of the Town of Southport, on behalf of the Southport Town Board and the citizens of the community, do hereby commend and thank Danny Jo Houston for his outstanding and faithful service to the Southport Volunteer Fire Department and the Town of Southport.

AYES: Gunderman, Hurley, Steed, Williams, Roman

NOES: None

CARRIED.

RESOLUTION NO. 45-2022

UPDATING TOWN OF SOUTHPORT EMPLOYEE HANDBOOK TO INCLUDE CORRECTIVE ACTION AND DISCIPLINE (PROHIBITED CONDUCT), DRUG FREE WORKPLACE/DRUG FREE AWARENESS PROGRAM; AND EMPLOYEE ASSISTANCE PROGRAM

Resolution by: Gunderman
Seconded by: Steed

WHEREAS, by Resolution No. 98-2009, the Town Board adopted an Employee Handbook for all employees of the Town of Southport, and

WHEREAS, the Town Board has reviewed the updates to include Corrective Action and Discipline (Prohibited Conduct), Drug Free Workplace/Drug Free Awareness Program, and Employee Assistance Program for the Town of Southport Employees.

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Southport hereby approves the updates as mentioned above, which will be added to the Town of Southport Employee Handbook.

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

RESOLUTION NO. 46-2022

AUTHORIZING TOWN SUPERVISOR TO ENTER INTO AN AGREEMENT WITH NICHOLA OSTRANDER FOR THE POSITION OF COMMUNITY DEVELOPMENT SPECIALIST

Resolution by: Steed
Seconded by: Williams

RESOLVED, that the Supervisor of the Town of Southport hereby is authorized to enter into an agreement with Nichola Ostrander, an independent contractor who will serve as a Community Development Specialist for the Town of Southport,

RESOLVED, that this agreement shall run from February 11, 2022 through February 11, 2023. This agreement may be terminated by either party upon 30 days written notice to the other.

RESOLVED, that the Town Board agrees to compensate Nichola Ostrander in the amount not to exceed Seventy-Five Dollars and 00/100 (\$75.00) per hour for services rendered.

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

RESOLUTION NO. 47-2022

AUTHORIZING SUPERVISOR AND TOWN COUNCIL MEMBER TIMOTHY STEED TO APPLY FOR A FEMA HAZARD MITIGATION GRANT PROGRAM (HMGP)

Resolution by: Williams
Seconded by: Hurley

WHEREAS, the New York State Division of Homeland Security and Emergency Services (DHSES) has made available grant monies through the FEMA Hazard Mitigation Grant Program (HMGP), and

WHEREAS, the Supervisor and Council Member Timothy Steed have advised this Town Board that monies are available through this grant to help with the cost of installing a generator at Southport Town Hall.

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Southport does hereby authorize the Supervisor and Council Member Timothy Steed to apply for the FEMA Hazard Mitigation Grant Program (HMGP) to help with the cost of installing a generator at Southport Town Hall.

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

RESOLUTION NO. 48-2022

AUTHORIZING SUPERVISOR TO COMMIT \$3,000 TO ASSIST WITH THE COST OF UPGRADING THE UPCOMING 2022 DIGITAL ORTHOIMAGERY BEING PROVIDED TO CHEMUNG COUNTY THROUGH THE NEW YORK STATE DIGITAL ORTHOIMAGERY PROGRAM (NYS DOP)

Resolution by: Hurley
Seconded by: Steed

WHEREAS, the GIS Cooperative has been working to upgrade digital orthoimagery which is being provided to Chemung County through the New York State Digital Orthoimagery Program (NYS DOP).

WHEREAS, it is recognized that these system upgrades to the imagery will allow us to further refine our abilities to provide infrastructure, topography and other natural and attribute data along with developing other GIS data layers.

NOW THEREFORE BE IT RESOLVED, that the Town of Southport shall commit a total of THREE THOUSAND DOLLARS AND 00/100 (\$3,000.00), which will be paid in 2023.

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

RESOLUTION NO. 49-2022

AUTHORIZING SUPERVISOR TO APPLY FOR A COMMUNITY DEVELOPMENT GRANT
THROUGH THE CHEMUNG COUNTY LEGISLATURE

Resolution by: Hurley
Seconded by: Williams

WHEREAS, the Town of Southport is eligible to apply for a Community Development Grant through the Chemung County Legislature, and

WHEREAS, the purpose of this grant will be to fund events for the Town of Southport's Bicentennial Celebration.

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Southport hereby authorizes the Supervisor to apply for a Community Development Grant through the Chemung County Legislature to help fund events for the Town of Southport's Bicentennial Celebration.

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

Under Discussion was Cherry Lane Park, LLC. Supervisor Roman stated Code Enforcement Officer Pete Rocchi checked into other parks owned by Ron Fish. Mr. Rocchi stated he received a 50/50 response in regards to the conditions of the other parks. He feels that onsite management is important and that he's been by Cherry Lane multiple times in the last month and the office is never open or anyone around.

Attorney Bruno stated that the onsite management had a family emergency and will not be returning to work in the office so they are looking for someone else. Mr. Bruno also went over his timeline and criteria to renew the license.

Mr. Bruno did give a copy to each Town Board member of an Agreement between Cherry Lane Park and Thayer Mobile Homes for the renovation of trailers, with a start date of March. He states the hope is to renovate six trailers within the first year but the owner, Ron Fish, will not invest any money into this unless a license is granted from the Town of Southport.

Supervisor Roman stated that the Town has three options, the first to deny the license, the second to continue as is in a holding pattern, or third, grant the license.

Supervisor Roman then opened up for the residents to comment.

Tina Moore from 1173 Sherman Avenue asked for an update to her question last month about furnace inspections and maintenance logs. She also stated she feels the outside of the trailers need to be renovated as well.

Mary Davenport from 1157 Sherman Avenue stated she is concerned with the conditions of the park, as well as increased number of feral cats in the neighborhood.

Supervisor Roman stated this will be tabled once again to the March meeting.

Also under discussion was HVAC upgrades, which was discussed at the Special Meeting held on February 8, 2022.

RESOLUTION NO. 50-2022

AGREEMENT WITH NEW YORK STATE ELECTRIC AND GAS COMPANY (NYSEG) FOR LED LIGHT CONVERSION TO EXISTING NYSEG OWNED STREET LIGHTS WITHIN THE TOWN OF SOUTHPORT

Resolution by: Hurley
Seconded by: Gunderman

WHEREAS, the Town of Southport determined that converting designated street lights within the Town to Light Emitting Diode (LED) fixtures will generate a substantial savings to the residents; therefore, wishes to convert said street lights to Light Emitting Diode (LED) fixtures; and

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Southport, County of Chemung, State of New York authorizes the Agreement with the New York State Electric and Gas Company (NYSEG), dated November 30, 2021, which allows for the conversion of existing NYSEG owned street lights within the Town of Southport, at locations set forth in Attachment A of said Agreement, to Light Emitting Diode (LED) fixtures and authorizes the Town Supervisor to execute said agreement, and

BE IT FURTHER RESOLVED, pursuant to said agreement with NYSEG the Town of Southport, County of Chemung, State of New York authorizes the payment of THIRTY-TWO THOUSAND NINE HUNDRED FIFTY-THREE DOLLARS AND 86/100 (\$32,953.86) to NYSEG for the unexpired life of the existing NON-LED fixtures.

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

RESOLUTION NO. 51-2022

PROPOSED LOCAL LAW NO. 1 OF 2022

LOCAL LAW NO. 1 OF THE YEAR 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: Steed
Seconded by: Williams

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

THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Southport, County of Chemung, State of New York recommends this proposed local law in the form set forth below be referred to the Town of Southport Planning Board for recommendations as required by Section 525-148 of the Town of Southport Code; and

PROPOSED LOCAL LAW NO. 1 OF 2022

LOCAL LAW NO. 1 OF THE YEAR 2022, A TEMPORARY 12-MONTH MORATORIUM FOR OPERATING UNLICENSED RETAIL BUSINESSES INVOLVING THE TRANSFER, DISTRIBUTION OR SALE OF CANNABIS WITHIN THE TOWN OF SOUTHPORT

NOW, THEREFORE, BE IT RESOLVED, that said proposed Local Law No. 1 of 2022 for the Town of Southport to provide a temporary 12-month moratorium for the operation of unlicensed retail businesses that transfer, distribute, or sell cannabis 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 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 business 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.

Also under Discussion was Form Based Code Review Committee report. Supervisor Roman gave an update from the meeting and stated this will be tabled until the March meeting.

Lastly under Discussion was Bicentennial Committee report. Supervisor Roman gave an update and stated the next meeting would be March 8, 2022.

Council Member Williams commented on the horse situation and Supervisor Roman stated a Special Meeting will be scheduled in March to formulate a plan.

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

The meeting was adjourned at 9:00 p.m.

Respectfully Submitted,

Carolyn A. Renko, Town Clerk