

January 10, 2023

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 January 10, 2023.

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, Highway Superintendent Steven Renko, 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

**PUBLIC HEARING 7:02 P.M.** – for the purpose of hearing any and all public comment regarding proposed amendment to Chapter 525, Article IX, Section 525-114 (A) and Section 525-114 (B), Outside storage of certain vehicles, equipment or materials.

Town Clerk Carolyn Renko read the legal notice that appeared in the Star Gazette and opened up the Public Hearing for comment at 7:02 p.m. No one wished to speak so the public portion of the public hearing was closed at 7:03 p.m.

Code Enforcement Officer gave a brief explanation of the amendment.

#### RESOLUTION NO. 25-2023

LOCAL LAW NO. 1 OF 2023 TO AMEND CODE CHAPTER 525, ARTICLE IX, SECTION 525-114 (A) AND (B)

Resolution by: Steed  
Seconded by: Williams

WHEREAS, the Town of Southport wishes to amend the Town of Southport Code, Chapter 525, Article IX, Section 525-114 (A) and (B) titled Outside Storage of Certain Vehicles, Equipment and Materials, to address vehicles being stored outside which have extensive damage and are inoperable; and

WHEREAS, the Town of Southport Planning Board having recommended and approved this amendment and the Chemung County Planning Board having also approved this proposed amendment herein; and

WHEREAS, that this Local Law No. 1 of 2023 to Amend Code Chapter 525, Article IX, Section 525-114 (A) and (B) 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 January 10, 2023 at 7:00 p.m. before the Town Board at the Town of Southport Town Hall located at 1139 Pennsylvania Avenue, Elmira, N.Y. 14904, upon public notice provided by law, and the said proposed local law having been read in its final form at this meeting; and

NOW THEREFORE, BE IT RESOLVED, the Town Board of the Town of Southport, County of Chemung, State of New York hereby adopts Local Law No.1 of 2023 to Amend Code Chapter 525, Article IX, Section 525-114 (A) and (B), and is hereby enacted to wit:

LOCAL LAW NO. 1 OF 2023 TO AMEND CODE CHAPTER 525, ARTICLE IX, SECTION 525-114(A) and (B)

Section 1.

This local law shall be known as “Local Law No.1 of 2023 to Amend Code Chapter 525, Article IX, Section 525-114 (A) and (B)”.

Section 2.

The Town of Southport Code Chapter 525, Article IX, Section 525-114(A) and (B) is hereby amended to read as follows:

A. Storage in front or side yards.

(1) No front yard or side yard in any district shall be used for the storage of any vehicles or for the storage of any parts or equipment for making repairs to any kind of vehicles.

(2) No front yard setback or side yard setback in any district shall be used for the storage of any travel trailers, recreational vehicles, boats or boat trailers or snowmobiles, ATVs and associated trailers.

(3) All vehicle storage shall be within existing driveways and shall be in compliance with clear vision requirements at all times.

B. Storage of unregistered and unlicensed motor vehicles and/or parts.

(1) In any district, there shall be no outside storage of any unregistered, unlicensed or uninspected motor vehicles for a time period longer than 15 days in any calendar year.

- (2) In any district, except at a vehicle repair shop or vehicle salvage yard operated in compliance with §525 Attachment 1, the Use Regulation Table, there shall be no outside storage of any vehicle which due to a motor vehicle accident, motor vehicle fire, intentional damage, mechanical failure, or any other factor is not operable or could not pass New York State inspection.

Section 2. Inconsistent Zoning Ordinances.

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

Section 3. 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 4. 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.

Section 5. Effective Date.

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

AYES: Gunderman, Hurley, Steed, Williams, Roman

NOES: None

CARRIED.

**PUBLIC HEARING 7:08 P.M.** – for the purpose of hearing any and all public comment regarding proposed amendment to Chapter 497-12 (B) and (C) Prohibited vehicles; exemptions.

Town Clerk Carolyn Renko read the legal notice that appeared in the Star Gazette and opened up the Public Hearing for comment at 7:08 p.m. No one wished to speak so the public portion of the public hearing was closed at 7:09 p.m.

Code Enforcement Officer gave a brief explanation of the amendment.

RESOLUTION NO. 26-2023

LOCAL LAW NO. 2 OF 2023 TO AMEND CODE CHAPTER 497, ARTICLE IV, SECTION 497-12

Resolution by:           Gunderman  
Seconded by:           Steed

WHEREAS, the Town of Southport wishes to amend the Town of Southport Code, Chapter 497, Article IV, Section 497-12 titled Prohibited Vehicles; Exemptions to address tractor-trailers and other similar heavy-duty vehicles being parked on private property in the Town. Often these trailers and vehicles are being used for storage and living quarters which are not compatible with the Use Regulation Table; and

WHEREAS, the Town Planning Board approved and recommended the amendment as set forth herein; and

WHEREAS, that this Local Law No. 2 of 2023 to Amend Code Chapter 497, Article IV, Section 497-12 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 January 10, 2023 at 7:08 p.m. before the Town Board at the Town of Southport Town Hall located at 1139 Pennsylvania Avenue, Elmira, N.Y. 14904 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; and

NOW THEREFORE, BE IT RESOLVED, the Town Board of the Town of Southport, County of Chemung, State of New York hereby adopts Local Law No.2 of 2023 to Amend Code Chapter 497, Article IV, Section 497-12, and is hereby enacted to wit:

LOCAL LAW NO. 2 OF 2023 TO AMEND CODE CHAPTER 497, ARTICLE IV, SECTION 497-12

Section 1.

This local law shall be known as “Local Law No.2 of 2023 to Amend Code Chapter 497, Article IV, Section 497-12”.

Section 2.

The Town of Southport Code Chapter 497, Article IV, Section 497-124 is hereby amended to read as follows:

**497-12 PROHIBITED VEHICLES; EXEMPTIONS**

A. No motor vehicle, including vans, trucks, tractors, tractor-trailers, having a total weight in excess of 10,000 pounds (GVWR), shall travel or operate on any Town road in Residential 1, Residential 2, Residential 3, Commercial Neighborhood, Commercial Regional, and Industrial Zones.

B. No motor vehicle and/or trailers, including vans, trucks, tractors, tractor-trailers, having a total gross vehicle weight in excess of 10,000 pounds (GVWR), shall be parked on any public roadway or on private property for more than one hour in any zone.

C. No motor vehicle, including vans, trucks, tractors, tractor-trailers, having a weight in excess of 30,000 pounds (GVWR), shall travel or operate on any Town road in the AR Zone.

D. The following vehicles are exempt:

- (1) Municipal.
- (2) Emergency.
- (3) Local deliveries that are performing a delivery.
- (4) Construction deliveries for a legitimate job.
- (5) Vehicles owned by residents residing in the district used to travel to and from their property.
- (6) Recreational vehicles, as long as they are in transit or parked off street and not obstructing the view of traffic entering or exiting a Town road.
- (7) The designated operator of a semitractor trailer may park the truck tractor on the premises as long as it does not obstruct the view of oncoming traffic, is not parked in the Town right-of-way and remains parked when not in transit to work.
- (8) Construction trailers only for the duration of a construction project

Section 2. Inconsistent Zoning Ordinances.

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

Section 3. 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 4. 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.

Section 5. Effective Date.

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

AYES: Gunderman, Hurley, Steed, Roman

NOES: Williams

CARRIED.

Monthly reports were received as follows:  
Town Clerk Carolyn A. Renko

Town Clerk & Dog License Fees		\$ 1,188.53
Funds Turned to State & County Agencies		<u>\$ 703.22</u>
		\$ 1,891.75
Code Enforcement Officer		
Fees Collected	Building Permit Fees	\$ 752.10
	Building Permit Values	\$ 316,500.00
Justice Office		
Elmira City Animal Control		
Recreation/Aging/Youth Services		
Residential Deputy		

Council Member Steed made a motion, Council Member Hurley 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 of December 13, 2022 Regular Meeting and January 3, 2023 Organizational Meeting.

Under Taxpayer’s Comments, agenda and discussion items only, no one wished to speak.

RESOLUTION NO. 27-2023

APPROVING ABSTRACT OF GENERAL FUND CLAIMS #13 OF 2022

Resolution by: Gunderman  
Seconded by: Williams

RESOLVED, that the Abstract of General Fund Claims #13, submitted by the Town Clerk for the month of December 2022, No. 642 through No. 669, not to exceed \$26,267.31, has been approved for payment by this Town Board.

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

RESOLUTION NO. 28-2023

APPROVING ABSTRACT OF GENERAL FUND CLAIMS #1 OF 2023

Resolution by: Gunderman  
Seconded by: Steed

RESOLVED, that the Abstract of General Fund Claims #1 of 2023, submitted by the Town Clerk for the month of January 2023, No. 1 through No. 35, not to exceed \$95,027.24, has been approved for payment by this Town Board.

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

RESOLUTION NO. 29-2023

APPROVING ABSTRACT OF HIGHWAY FUND CLAIMS #13 OF 2022

Resolution by: Steed  
Seconded by: Hurley

RESOLVED, that the Abstract of Highway Fund Claims #13, submitted by the Town Clerk for the month of December 2022, No. 236 through No. 251, not to exceed \$56,470.99, has been approved for payment by this Town Board.

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

RESOLUTION NO. 30-2023

APPROVING ABSTRACT OF HIGHWAY FUND CLAIMS #1 OF 2023

Resolution by: Hurley  
Seconded by: Williams

RESOLVED, that the Abstract of Highway Fund Claims #1 of 2023, submitted by the Town Clerk for the month of January 2023, No. 1 through No. 8 not to exceed \$86,858.64, has been approved for payment by this Town Board.

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

RESOLUTION NO. 31-2023

APPROVING ABSTRACT OF LIGHT FUND CLAIMS #13 OF 2022

Resolution by: Gunderman  
Seconded by: Steed

RESOLVED, that the Abstract of Light Fund Claims #13 of 2022, submitted by the Town Clerk for the month of December 2022, No. 10 not to exceed \$13,411.25, has been approved for payment by this Town Board.

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

RESOLUTION NO. 32-2023

AUTHORIZING SUPERVISOR TO MAKE TEMPORARY INVESTMENTS OF TOWN FUNDS DURING FISCAL YEAR 2023

Resolution by: Williams  
Seconded by: Steed

RESOLVED, that pursuant to and in accordance with the provisions of Section 11 of the General Municipal Law, as amended, the Supervisor be and is hereby directed to invest and reinvest accordingly therewith all such Town funds which are not needed for current use in the operation of Town Government, and be it further

RESOLVED, that the Supervisor shall cause a proper distribution to be made to the several Town accounts of the interest or income earned thereon and in proportion to such investments, and be it further

RESOLVED, that the Supervisor shall cause a proper distribution to be made to the several Town accounts of the interest or income earned thereon and in proportion to such investments, and be it further

RESOLVED, that such time deposit account or certificate of deposit be secured by a pledge of obligations of the United States of America, or any obligation fully guaranteed or insured as to the interest and principal by the United States of America acting through any agency subdivision, department or division thereof, or obligations of the State of New York or obligations of any municipal corporation, of the State of New York.

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



RESOLUTION NO. 33-2023

AUTHORIZING TOWN CLERK AND DEPUTY TOWN CLERKS TO ATTEND CHEMUNG/SCHUYLER MUNICIPAL CLERKS ASSOCIATION MEETINGS FOR THE YEAR 2023

Resolution by: Williams  
Seconded by: Steed

RESOLVED, that the Town Clerk and Deputy Town Clerks are hereby authorized to attend the Chemung/Schuyler Municipal Clerks Association Meetings during the year 2023 and that their expenses therefore shall be a proper Town charge.

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

RESOLUTION NO. 34-2023

APPOINTING JEFFREY JUDSON AS RIGHT TO FARM COMMITTEE PERSON FOR THE TOWN OF SOUTHPORT

Resolution by: Williams  
Seconded by: Steed

WHEREAS, the Right to Farm Local Law No. 2 of the year 2006, Resolution 205-2006 was adopted on December 12, 2006 for the intent of recognizing as an essential enterprise and an important industry to enhance the economic base, natural environmental and quality of life in the Town of Southport, and

WHEREAS, it is the general purpose and intent of this law to maintain and preserve the rural traditions and character of the Town by resolving any disputes concerning agriculture practices and farm operations, and

WHEREAS, the Right to Farm Law provides for a dispute resolution committee to be composed of in part a representative from the Town's Farming Community, and

WHEREAS, the Town Board of the Town of Southport believes it is in the best interest of the Town to appoint a Right to Farm Hearing Committee person and in order to maintain a viable farming economy in the Town of Southport.

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Southport does hereby appoint Jeffrey Judson as the Right to Farm committee person, as a volunteer representative from the farm community through December 31, 2023 and said appointment will be on an annual basis.

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

RESOLUTION NO. 35-2023

ACCEPTING PROPOSED BUILDING PERMIT FEE SCHEDULE

Resolution by: Williams  
 Seconded by: Steed

WHEREAS, the Code Enforcement Officer has informed this Town Board that the building permit fee schedule presently in existence in the Town of Southport is out of proportion to such fee schedules in other municipalities in this geographical area, and

WHEREAS, the Code Enforcement Officer has presented to the Town Board proposed changes, as well as fee schedules in adjoining municipalities.

NOW THEREFORE BE IT RESOLVED, that pursuant to the authority contained in the Executive Law of the State of New York together with all other statues, rules and regulations applicable thereto, Resolution No. 97 duly adopted by this Town Board on March 9, 1965 establishing a fee schedule for building permits to be and the same is revised to read as follows:

Building Permit Fees

	Current 2022	New 2023
New Home New Addition	.20 per sq ft Minimum: \$30	.30 per sq ft Minimum: \$100
Residential Remodeling	.10 per sq ft Minimum: \$30	.15 per sq ft Minimum: \$50
New Commercial Construction	.30 per sq ft Minimum: \$100	.40 per sq ft Minimum: \$200
New Commercial Pole Style Construction	.20 per sq ft Minimum: \$100	.30 per sq ft Minimum: \$150
Commercial Renovation or Remodel	.15 per sq ft Minimum: \$50	.20 per sq ft Minimum: \$100
Residential Accessory Building	Sheds over 144 sf, decks, garages, etc. .10 sq ft	Sheds over 144 sf, decks, garages, etc. .15 sq ft

	Minimum: \$30	Minimum: \$50
Agricultural Building	\$50	\$50
Pools – new or fill in	\$25	\$50
Fences	Fences \$25 Agricultural use excluded	\$30 Agricultural use excluded
Roofing	\$2 per sq Minimum: \$25	\$3 per sq Min: \$50
Demolition	.05 sq ft Minimum \$25	.05 sq ft Minimum: \$30
Site Plan Review Minor Site Plan Review Major	\$75 \$150	\$150 \$300
Special Use Permit Minor Special Use Permit Major	\$75 \$150	\$150 \$300
Variance	\$75	\$100 Residential \$150 Commercial
Signs	\$30	\$50
Emergency Generator Solar Panels	\$30	\$50
Solar Farm		\$75 + \$2/1,000 of construction value Minimum: \$250

Timber Harvest		\$50
Building w/o Permit	\$75 penalty fee	\$150 +Double permit fee

RESOLVED, that this revised fee schedule shall become effective on January 10, 2023 and shall remain effective until otherwise refused or changed by this Town Board.

AYES: Gunderman, Hurley, Steed, Williams, Roman

NOES: None

CARRIED.

RESOLUTION NO. 36-2023

INTERMUNICIPAL AGREEMENT FOR ANIMAL CONTROL SERVICES BETWEEN THE TOWN OF SOUTHPORT AND THE CITY OF ELMIRA

Resolution by: Gunderman

Seconded by: Hurley

WHEREAS, the City of Elmira has proposed to provide animal control services to the Town of Southport from January 1, 2023 through December 31, 2023 for the total cost of THIRTY-EIGHT THOUSAND, EIGHT HUNDRED NINE DOLLARS AND 00/100 (\$38,809.00) in twelve (12) monthly installments of THREE THOUSAND TWO HUNDRED THIRTY FOUR DOLLARS AND 08/100 (\$3,234.08).

WHEREAS, the City of Elmira has agreed to a road officer available 24 hours a day, seven days a week to the residents of the Town of Southport for animal control services.

NOW THEREFORE BE IT RESOLVED, that the Town of Southport for said animal control for the period from January 1, 2023 to December 31, 2023 shall be in the amount of THIRTY-EIGHT THOUSAND, EIGHT HUNDRED NINE DOLLARS AND 00/100 (\$38,809.00) in twelve (12) monthly installments of THREE THOUSAND TWO HUNDRED THIRTY FOUR DOLLARS AND 08/100 (\$3,234.08) in accordance with the provisions of this agreement.

AYES: Gunderman, Hurley, Steed, Williams, Roman

NOES: None

CARRIED.

RESOLUTION NO. 37-2023

ACCEPTING PROPOSAL OF MOORE & WOODHOUSE, LLP TO PROVIDE LEGAL COUNSEL TO  
THE TOWN OF SOUTHPORT

Resolution by: Steed  
Seconded by: Hurley

WHEREAS, Kimberlee Balok Middaugh Esq. with the law firm of Sayles & Evans performs legal services for the Town of Southport and due to a conflict related to her elected position as Town Justice for the Town of Elmira is now unable to further perform any prosecutorial duties for the Town of Southport which include the enforcement of the town code, local laws, or dangerous dog proceedings; and

WHEREAS, the Town of Southport Town Board wishes to engage the law firm of Moore & Woodhouse, LLP for Attorney Stephen R. Hoffman to perform these prosecutorial duties, and

NOW THEREFORE BE IT RESOLVED, that the Town of Southport Town Board, County of Chemung, State of New York hereby agrees to engage the legal services of Attorney Stephen R. Hoffman with Moore & Woodhouse, LLP to perform prosecutorial duties on behalf of the Town in accordance with the terms set forth in the proposed for professional legal services dated December 31, 2022 for the year of 2023, and

BE IT FURTHER RESOLVED, that the Town of Southport Town Board authorizes the Town Supervisor to execute all documents and take any action necessary to effectuate the engagement of Moore & Woodhouse, LLP for the legal services of Attorney Stephen R. Hoffman.

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

Under Discussion was update on 521 Schuyler Avenue. Code Enforcement Officer Peter Rocchi stated they are still waiting for NYSEG to shut off the utilities. Once this is done, demolition can begin.

Next under Discussion was Cherry Lane Park.

RESOLUTION NO. 38-2023

HEARING CHERRY LANE PARK, LLC REGARDING MOBILE HOME PARK LICENSE

Resolution by: Steed  
Seconded by: Hurley

WHEREAS, the Code Officer Peter Rocchi reported to the Town Board the current compliance status of the Cherry Lane License Assignment Agreement between the Town and Cherry Lane Park, LLC dated March 16, 2022; and

WHEREAS, since the Code Officer reported that the mobile home park located at 1170 Sherman Avenue, Elmira, New York 14904 is not in compliance with the said Agreement; therefore, the Code Officer is recommending that a hearing be scheduled in accordance with Town Code Section 352-10(B) to show cause why such license should not be revoked; and

NOW THEREFORE BE IT RESOLVED, after consideration of the report from Code Officer Rocchi regarding the compliance status of the mobile home park located at 1170 Sherman Avenue, Elmira, New York 14904 with the Cherry Lane License Assignment Agreement between the Town of Southport and Cherry Lane Park, LLC and the Code Officer's recommendation for referral to the Town Board for a hearing in accordance with Section 352-10(B), Town of Southport Town Board hereby places on the agenda for the next Town Board meeting a hearing to be held before the Town Board regarding the mobile home license of Cherry Lane Park, LLC in accordance with Section 352-10(B) of the Town of Southport Code.

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

Lastly under Discussion was recommendation from Code Enforcement to demolish a trailer at 1170 Sherman Avenue. Code Enforcement Officer Rocchi stated the owner of Cherry Lane Park had the trailer demolished and removed.

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

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

The meeting adjourned to executive session at 7:50 p.m.

The meeting reconvened at 8:18 p.m.

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

The meeting was adjourned at 8:20 p.m.

Respectfully Submitted,

Carolyn A. Renko, Town Clerk