

October 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 October 10, 2023.

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

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

The meeting was called to order by Supervisor Roman at 6:00 p.m., followed by the Pledge of Allegiance to the Flag of the United States of America.

Moment of Silence – Supervisor Roman

Monthly reports were received as follows:

Town Clerk Carolyn A. Renko

Town Clerk & Dog License Fees	\$ 3,218.14
Funds Turned to State & County Agencies	<u>\$ 10,933.61</u>
	\$ 14,151.75

Code Enforcement Officer

Fees Collected: Building Permit Fees	\$ 2,041.85
Building Permit Values	\$ 388,300.00
Operating Permit Fees	\$ 450.00

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

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

Under Correspondence, Supervisor Roman gave an update on the new HVAC system at Town Hall. He also mentioned that the Chemung County Youth Bureau will once again be hosting the Super Saturday Program starting 10/14/23. Lastly, Supervisor Roman stated he attended the Board of Elections Training.

Council Member Hurley made a motion, Council Member Steed seconded to accept the minutes of September 12, 2023 Regular Meeting and September 19, 2023 Tentative Budget Meeting.

PUBLIC HEARING 6:08 P.M. – regarding Local Law No. 12 of 2023, to Override Tax Levy Limit for taxable 2024 year established in General Municipal Law.

Town Clerk Carolyn Renko read the legal notice that appeared in the Star-Gazette and opened up the Public Hearing for comment at 6:08 p.m.

No one wished to speak so the public portion of the public hearing was closed at 6:09 p.m.

No comments from the Town Board.

RESOLUTION 141-2023

LOCAL LAW NO. 12 OF 2023

A LOCAL LAW OF THE TOWN OF SOUTHPORT, NEW YORK TO OVERRIDE THE TAX LEVY LIMIT ESTABLISHED IN GENERAL MUNICIPAL LAW SECTION 3-C

Resolution by: Gunderman
Seconded by: Steed

WHEREAS, the Town of Southport wishes to enact a local law to allow the Town of Southport to override the tax levy limit established in General Municipal Law Section 3-c for the year commencing January 1, 2024.

WHEREAS, this proposed Local Law No. 12 of 2023 to override the tax levy limit established in General Municipal Law Section 3-c, thereof in its final form having been upon the desks of members of the Board for at least seven (7) calendar days, exclusive of Sunday, prior to this day, and a public hearing having been duly held on October 10, 2023 before the 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, that said proposed Local Law No. 12 of 2023 to override the tax levy limit established in General Municipal Law Section 3-c, is hereby adopted and enacted, to wit:

Section 1: Legislative Intent

It is the intent of this local law to allow the Town of Southport to adopt a budget for the fiscal year commencing January 1, 2024 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law Section 3-c.

Section 2: Authority

This local law is adopted pursuant to subdivision 5 of the General Municipal Section 3-c, which expressly authorizes a local government’s governing body to override the property tax cap for the coming fiscal year by the adoption of a local law approved by a vote of sixty percent (60%) of said governing body.

Section 3: Tax Levy Limit Override

The Town Board of the Town of Southport, New York, County of Chemung is hereby authorized to adopt a budget for the fiscal year commencing January 1, 2024 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law Section 3-c.

Section 4: Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law for 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 circumstances, directly involved in the controversy in which such judgment or order shall be rendered.

Section 7: Effective Date

This Local Law shall take effect immediately upon filing with the Secretary of State.

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

Under Taxpayer's Comments, Agenda and Discussion items only, Andy Patros from 1127 Pennsylvania Avenue commented on the Public Hearing to Override the Tax Levy Limit and Resolution #3, Approving Preliminary Budget and directing Public Hearing to be held on November 1, 2023 at 6:00 p.m.

RESOLUTION NO. 142-2023

APPROVING ABSTRACT OF GENERAL FUND CLAIMS

Resolution by: Gunderman
Seconded by: Williams

RESOLVED, that the Abstract of General Fund Claims submitted by the Town Clerk for the month of October 2023, No. 491 through No. 548, not to exceed \$119,086.69, has been audited and approved for payment by this Town Board.

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

RESOLUTION NO. 143-2023

APPROVING ABSTRACT OF HIGHWAY FUND CLAIMS

Resolution by: Steed
Seconded by: Williams

RESOLVED, that the Abstract of Highway Fund Claims submitted by the Town Clerk for the month of October 2023, No. 164 through No. 184, not to exceed \$146,096.92, has been audited and approved for payment by this Town Board.

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

RESOLUTION NO. 144-2023

APPROVING PRELIMINARY BUDGET AND DIRECTING PUBLIC HEARING THEREON

Resolution by: Gunderman
Seconded by: Hurley

RESOLVED, that the Tentative Budget, consisting of an estimate of revenues and expenditures, presented to the Town Board and the same has been modified by this Town Board be and the same hereby is approved as the Preliminary Budget for the fiscal year commencing January 1, 2024 and ending December 31, 2024, as the same is set forth in detail therein and a copy filed in the Town Clerk's Office, where the same be available for inspection by any interested person during the office hours of the Town, and be it further

RESOLVED, that the Town Board shall hold a public hearing on the same Preliminary Budget in accordance with Section 108 of the Town Law, as amended, on the 1st day of November 2023, at 6:00 p.m., or as soon thereafter as it can be heard, at the Town Hall, 1139 Pennsylvania Avenue in said Town, and be it further

RESOLVED, that the Town Clerk be and she hereby is directed to cause notice of such public hearing to be published at least once in the official newspaper and to cause a copy of such notice to be posted on the sign board of the Town which shall be done at least five (5) days before the date specified for this meeting.

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

RESOLUTION NO. 145-2023

AUTHORIZING SUPERVISOR TO SIGN STATEMENT OF VALUES FOR INSURANCE PURPOSES

Resolution by: Gunderman
Seconded by; Williams

RESOLVED, that the Supervisor be and he hereby is authorized to sign a Statement of Values of articles of Town property and equipment, and be it further

RESOLVED, that a copy of such Statement of Values shall be filed with the Town Clerk.

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

RESOLUTION NO. 146-2023

LOCAL LAW NO. 13 OF 2023, A SIX-MONTH EXTENSION OF THE TEMPORARY MORATORIUM FOR OPERATING UNLICENSED RETAIL BUSINESSES INVOLVING THE TRANSFER, DISTRIBUTION, OR SALE OF CANNABIS WITHIN THE TOWN OF SOUTHPORT

Resolution by: Williams
Seconded by: Hurley

WHEREAS, the Town of Southport enacted Local Law No. 1 of 2022 in April of 2022 titled a Temporary 12-Month Moratorium for Operating Unlicensed Retail Businesses Involving the Transfer, Distribution, or Sale of Cannabis to allow the Town of Southport 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 and enacted a Town wide moratorium for the establishment of any unlicensed business that distributes, transfers, or sells cannabis to allow the Office of Cannabis Management to complete regulations and rules to oversee the licensing, cultivation, production, distribution, sale, laboratory testing and use of cannabis; and

WHEREAS, the Town of Southport enacted Local Law No. 3 of 2023, A Six-Month Extension of the Temporary 12-Month Moratorium for Operating Unlicensed Retail Businesses Involving the Transfer, Distribution, or Sale of Cannabis Within the Town of Southport; and

WHEREAS, to date the New York State Office of the Cannabis Management has not finalized the rules and 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 extend the moratorium for an additional six (6) months; and

NOW THEREFORE BE IT RESOLVED, the Town Board of the Town of Southport, County of Chemung, State of New York hereby refers the proposed Local Law No. 13 of 2023, A Six-Month Extension of the Temporary Moratorium for Operating Unlicensed Retail Businesses involving the Transfer, Distribution, or Sale of Cannabis Within the Town of Southport, as set forth herein, to the Chemung County Planning Board and the Town of Southport Planning Board for review; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Southport, County of Chemung, State of New York hereby schedules a public hearing for November 14, 2023 at 6 p.m. or as soon thereafter as can be heard, to receive public comment for Local Law No. 13 of 2023, A Six Month Extension of the Temporary Moratorium for Operating Unlicensed Retail Businesses involving the Transfer, Distribution, or Sale of Cannabis Within the Town of Southport at the Town of Southport Town Hall located at 1139 Pennsylvania Avenue, Elmira, N.Y. 14904 as forth herein:

Local Law No. 13 of 2023, A Six-Month Extension of the Temporary Moratorium for Operating Unlicensed Retail Businesses Involving the Transfer, Distribution, or Sale of Cannabis Within the Town of Southport

Section 1. TITLE.

This local law shall be known as “Local Law No. 13 of 2023, A Six-Month Extension of the Temporary Moratorium for Operating Unlicensed Retail Businesses involving the Transfer, Distribution, or Sale of Cannabis Within the Town of Southport”.

Section 2. LEGISLATIVE INTENT

- A. Since the enactment of Local Law No. 1 of 2022 and Local Law No. 3 of 2023, the New York State Office of the Cannabis Management has yet to finalize regulations to allow for the issuance of licenses to businesses to allow for the legal sale of adult-use cannabis or cannabinoid hemp licenses. Therefore, to prevent unlicensed businesses in the Town from providing, distributing, or transferring cannabis as a “gift” to customers which may be based upon the conditional purchase of a product for sale, including but not limited to, an item such as a sticker or shirt, the Town wishes to enact a Town wide moratorium for the establishment of any unlicensed business that distributes, transfers, or sells cannabis.
- B. During this additional six (6) month moratorium, the Town of Southport will continue to review and update its zoning code and regulations and monitor the adoption of the rules and regulations regarding licensure by the Office of Cannabis Management (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.
- C. The Town of Southport does hereby find a six (6) month extension of this moratorium 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 Six-month extension of this moratorium 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.

- D. The Town Board finds pursuant to 6 NYCRR 617.5(c) (30) that the adoption of this extension to the 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 3. EXTENDED TERM FOR MORATORIUM

- A. Local Law No. 1 of 2023 shall be extended for an additional six (6) months through April 30, 2024.
- B. Except as otherwise amended herein, all provisions of Local Law No. 1 of 2022 and Local law No. 3 of 2023 shall remain in effect and be extended for an additional six (6) months through April 30, 2024.

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. SUPERCESSION OF THE TOWN LAW

This local law is hereby adopted pursuant to Municipal Home Rules Law § 10. It is the intent of the Town Board, pursuant to Municipal Home Rules Law to supersede the following provisions of the New York State Town Law as it relates to zoning and planning determinations under the Town Law § 274-a and b, § 267-a and b, § 276 and § 277.

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.

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

RESOLUTION NO. 147-2023

APPOINTING TOWN OF SOUTHPORT CODE OFFICER PETER ROCCHI AS THE MS4 STORMWATER
MANAGEMENT OFFICER AND LOCAL STORMWATER PUBLIC CONTACT

Resolution by: Gunderman
Seconded by: Steed

RESOLVED, the Town Board of the Town of Southport hereby appoints Peter Rocchi, Town of Southport Code Officer, to be the MS4 Stormwater Management Officer and Local Stormwater Public Contact.

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

RESOLUTION NO. 148-2023

APPOINTING KENT COLLIER AS ALTERNATE MEMBER OF THE TOWN OF SOUTHPORT
ZONING BOARD OF APPEALS

Resolution by: Gunderman
Seconded by: Williams

RESOLVED, that Kent Collier be and he hereby is appointed as an Alternate Member of the Town of Southport Zoning Board of Appeals, term to expire November 14, 2026.

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

RESOLUTION NO. 149-2023

SETTING PUBLIC HEARING FOR ORDINANCE NO. 1-2023 TO AMEND THE CODE OF THE TOWN OF
SOUTHPORT, CHAPTER 497, VEHICLE AND TRAFFIC, ARTICLE II, STOP AND YIELD INTERSECTIONS,
SECTION 497-4, STOP INTERSECTIONS, TO ERECT A STOP SIGN ON HOLDEN ROAD AT THE INTERSECTION
OF HOLDEN ROAD AND BECKWITH ROAD

Resolution by: Steed
Seconded by: Hurley

WHEREAS, the Town of Southport Town Board wishes to address safety concerns regarding the intersection of Beckwith Road and Holden Road, which were brought to the attention of the Town Board by area residents and the Town of Southport Highway Superintendent.

NOW THEREFORE BE IT RESOLVED, that the Town of Southport Town Board, County of Chemung, State of New York, hereby schedules a public hearing for November 14, 2023, at 6:00 p.m. at the Town of Southport Town Hall located at 1139 Pennsylvania Avenue, Elmira, New York 14904, to receive public comment for the proposed Ordinance No. 1-2023, to Amend the Code of the Town of Southport, Chapter 497, Vehicle and Traffic, Article II, Stop and Yield Intersections, Section 497-4, Stop Intersections, To Erect a Stop Sign at the West Entrance of Holden Road and Beckwith Road to wit:

ORDINANCE NO. 1-2023

An Ordinance to Amend the Code of the Town of Southport, Chapter 497, Vehicle and Traffic, Article II, Stop and Yield Intersections, Section 497-4, Stop Intersections, to Erect a Stop Sign on Holden Road at the Intersection of Holden Road and Beckwith Road

Section 1. The Code of the Town of Southport, Chapter 497, Vehicle and Traffic, Article II, Stop and Yield Intersections, Section 497-4, Stop Intersections is amended to include a stop sign to be erected at the West entrance of Holden Road at the intersection of Holden Road and Beckwith Road.

Section 2. Inconsistent Ordinances. All Ordinances inconsistent with the above provisions of this Ordinance are hereby repealed.

Section 3. Effective Date. This Ordinance shall take effect immediately upon adoption and publication according to law.

AYES: Gunderman, Hurley, Steed, Williams, Roman

NOES: None

CARRIED.

RESOLUTION NO. 150-2023

AUTHORIZING THE SUPERVISOR TO APPLY FOR A USDA COMMUNITY FACILITIES GRANT FOR THE PURCHASE OF A HIGHWAY PLOW TRUCK

Resolution by: Hurley

Seconded by: Williams

WHEREAS, the Town of Southport desires to apply for financial assistance through the USDA Community Facilities Direct Loan & Grant, and

WHEREAS, the Town Supervisor will apply for the USDA Community Facilities Grant for the purchase of a new plow truck for the Town of Southport Highway Department.

NOW THEREFORE BE IT RESOLVED, that the Supervisor of the Town of Southport is hereby authorized to sign the application for the USDA Community Facilities Direct Loan & Grant.

AYES: Gunderman, Hurley, Steed, Williams, Roman

NOES: None

CARRIED.

RESOLUTION 151-2023

BUDGET MODIFICATIONS

Resolution by: Hurley
 Seconded by: Steed

RESOLVED, that the following transfer of funds are as follows:

Budget lines to be Modified	Prior Approved Budget Amt.	Amount of Requested Increase/Decrease	Revised Budget Amt.	Reason for Budget Rev.
From: A3650.4 Demo of Bldgs.	\$ 60,000.00	\$ (14,700.00)	\$ 45,300.00	
To: A1440.4 Engineer	\$ 32,500.00	\$ 5,700.00	\$ 38,200.00	
To: A1320.4 Police Contractual	\$ 65,000.00	\$ 500.00	\$ 65,500.00	
To: A3620.4 Code Contractual	\$ 25,000.00	\$ 8,500.00	\$ 33,500.00	
From: DA9060.8 Hospital & Medical	\$ 210,000.00	\$ (500.00)	\$ 209,500.00	
To: DA9040.8 Worker's Comp	\$ 28,000.00	\$ 500.00	\$ 28,500.00	Overage Workers Comp

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

RESOLUTION NO. 152-2023

SETTING HOURS FOR TRICK-OR-TREATING ON HALLOWEEN

Resolution by: Hurley
 Seconded by: Gunderman

RESOLVED, that the Town of Southport does hereby declare the hours of trick-or-treating on Halloween night, October 31, 2023, be from 5:30 p.m. to 8:00 p.m.

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

Under Discussion was update on Cherry Lane Park, LLC. Supervisor Roman stated the ten unoccupied trailers have been demolished and removed and according to Cherry Lane Park Attorney Michael Bruno, plans are moving forward.

Lastly under Discussion was recommendation from Town of Southport Zoning Board of Appeals to review Town Code §525-5 Agriculture, Definitions and §525-33 (7) (a) Agriculture Use, Personal. The Town Board will review this and it will be placed on the November 14, 2023 agenda.

Under Taxpayer's Comments, Mary DeSocio from 1598 Pennsylvania Avenue asked for an update on the issue of the blocked drain by her house that is causing flooding into her house when it rains.

Jason Williams from 604 Schuyler Avenue stated he would like to start a Neighborhood Watch Program in the Town of Southport.

Tina Moore from 1173 Sherman Avenue commented on Cherry Lane Park, LLC.

Karen Clark from 1179 Sherman Avenue commented on Cherry Lane Park, LLC.

Andy Patros from 1127 Pennsylvania Avenue commented on recent car break-ins in the Town of Southport and he feels an assessment should be done to see if there is a need for more resident police officers.

Council Member Gunderman made a motion, Council Member Williams seconded the motion to adjourn into an executive session to discuss the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation.

The meeting adjourned to executive session at 7:00 p.m.

The meeting reconvened at 8:05 p.m.

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

The meeting was adjourned at 8:06 p.m.

Respectfully Submitted,

Carolyn A. Renko, Town Clerk