

At the regular meeting of the Town Board of the Town of Elmira, Chemung County, New York held Monday, September 19, 2016 at 7:00 PM at 1255 West Water Street, Elmira, NY, there were present:

Supervisor: David Sullivan
Councilmember: Scott Bush
Councilmember: Thomas Milliken
Councilmember: Ronald Allison
Councilmember: Karen Krusen

Others present

Town Clerk- Jo Ann Sherwood
Attorney- Scott Moore
Code Enforcement Officer - Chip LeValley
Chief of Police- Peter Michalko
Highway Superintendent- Matthew Mustico
Buildings and Grounds Caretaker- Scott Eschbach
Recreation Director- Patty Carozza

Public Hearing

At 7:00 P.M. Town Attorney Scott Moore read proof of publication of notice of September 1, 2016 of notice of public hearing to consider proposed Local Law 2-2016 to Override the Tax Levy Limit Established in General Municipal Law §3-c. The hearing was declared open and anyone wishing to present written or oral comments in favor of proposed Local Law #2 was invited to do so. When no one wished to speak in favor of the proposed Local Law those wishing to speak in opposition of the proposed Local Law were invited to do so. When no one wished to speak in opposition the hearing was declared closed at 7:03 P.M.

At 7:03 P.M. Town Attorney Scott More read proof of publication of notice of September 1, 2016 of public hearing to seek public comment with regard to Real Property Tax Law #487 on Solar Energy. The hearing was declared open and anyone wishing to present written or oral comments in favor of opting out of this Real Property Tax Law on Solar Energy was invited to do so. When no one wished to speak in favor, those wishing to speak in opposition to opting out of this Real Property Tax Law on Solar Energy were invited to do so. When no one wished to speak in opposition, the hearing was declared closed at 7:06 P.M.

At 7:07 P.M. Town Attorney Scott Moore read proof of publication of notice of September 1, 2016 of public hearing to consider proposed Local Law 1-2016 to Amend Code of the Town of Elmira by Amending Article 1, Section 61.1 Keeping of Unauthorized Animals. The hearing was declared open and anyone wishing to present written or oral comments in favor of proposed Local Law #1 was invited to do so. Michael Prior, Country Club Drive stated he wasn't sure if he was in favor or not but he wished to complain about cats roaming the neighborhood. There is no state law that requires cats be licensed. He states cats are constantly in his flower beds and garden. When no one else wished to speak in favor of proposed local law those wishing to speak against the local law were invited to do so. Attorney Moore read a letter from Lori Welliver, a member of the Town Planning Board regarding the prohibiting of beekeeping in Fire District 1 and Fire District 2. She has changed her position regarding the exclusion of beekeeping and would now like to offer her support of beekeeping in Fire Districts 1 and 2. When no one else wished to speak in opposition, the hearing was declared closed at 7:15 P.M.

Resolution #112-16

Minutes

By Mr. Allison

Seconded by Mr. Bush

Motion was made to approve the minutes of the regular meeting of August 15, 2016.

Aye- Bush, Milliken, Allison, Krusen, Sullivan

No- None

Resolution #113-16

Financial Report

By Mr. Milliken

Seconded by Mrs. Krusen

Motion was made to accept and approve the Supervisor's report for the month of August 2016.

Aye- Bush, Milliken, Allison, Krusen, Sullivan

No- None

The board was given the following updates on Bank Balances for the month ending August 31, 2016.

Bank Balances	August 31, 2015	August 31, 2016	Change
Money Market	1,622,103.00	1,378,566.00	(243,537.00)
Highway Checking	95,469.00	22,603.00	(72,867.00)
General Checking	64,390.00	104,530.00	40,140.00
Payroll Checking	10,271.00	9,001.00	(1,270.00)
Tax Checking	42.00	32.00	(10.00)
Bail II Checking	24,750.00	2,450.00	(22,300.00)
Fines Checking	11,303.00	8,568.00	(2,735.00)
Bail Checking	1,400.00	10,150.00	8,750.00
License Checking	2,309.00	1,618.00	(692.00)
Fines II Checking	<u>12,168.00</u>	<u>8,174.00</u>	<u>(3,994.00)</u>
	1,844,205.00	1,545,691.00	(298,514.00)

Resolution #114-16

Audit of Bills

By Mr. Bush

Seconded by Mrs. Krusen

Resolved that claims in the total amount of \$88,095.45 were audited and approved for payment when in funds.

Aye- Bush, Milliken, Allison, Krusen, Sullivan

No- None

Communications:

Chemung County Stormwater Coalition- 8th Annual State of the Coalition invite

Discussion:

Wellsburg Fire District #4- Mayor Coles has requested a meeting with the Town regarding the 2017 Fire Contract between the town and the village. Supervisor Sullivan asked the board who would like to attend that meeting. Scott Bush and Ron Allison will represent the town. Local Law 1-2016 Amend Code of Town of Elmira Unauthorized animals regarding the inclusion of bees- Bees at the present would not be allowed according to the proposed local law. Supervisor Sullivan stated they could amend the law so that permission could be made to allow bees based on certain limitations. The board could also amend the law at a later date on the section regarding bees if someone approached and asked the board to do that or they could table the local law and send it back to the Town Planning Board for consideration. Mrs. Krusen is not in favor of the restrictions for chickens. She feels it is not enough. She is also not in favor of there being limitations for chickens but no limitations for bees. The board agreed to adopt the law as is at this time.

Real Property Tax Law on Solar Energy- Attorney Moore informed the town they now need to set a public hearing with regard to solar energy opt out. Another public hearing for the local law itself is needed. Tonight’s public hearing was just an informational one. This applies just to solar energy and not wind energy. Most local resolutions have had to do with solar energy only.

Department Reports

Police Chief Peter Michalko submitted his written monthly report. He reported that calls for service were up along with tickets. August was a busy month for the police department. Penal Law arrests and DWI arrests were both up and they had five meth arrests. Supervisor Sullivan commended the police department on all the work they had this month and stated they are a setting example for other police agencies.

Recreation Director Patty Carozza stated the Town Community Center is doing very well, with both the big and small rooms being booked. The fact that the building is handicapped accessible is a big plus she stated along with the fact that no alcohol is allowed. The new parking spots are also an added bonus. Patty stated that more lighting will be added to the parking lot because it is very dark at this time of year. Also she said that more signage is needed for directions to the building. Grandview Extension sign and a new TCC with an arrow sign have been ordered. They will use the TCC with an arrow sign on W. Church Street. Patty stated she has had inquiries for classes and other social activities for seniors to be held at the center. October is going to be very busy. Ron Allison stated a younger group of people is also interested in finding activities to do in the town at the Town Community Center as well.

Highway Superintendent Matt Mustico stated his crews have finished Hydro seeding at the Country Club on W. Clinton Street. The work on the sewer line at Forrest Hills Drive is done. Matt commended Deputy Michalko from the Sheriff's department for catching someone who was dumping garbage at the east hill garage. He stated his crews have also completed work on the ball parks and he will be meeting with DEC for the dam inspections. Jimmy Joe will be there as well. Matt attended the NYS Highway Conference last week and presented a class on shared service. Supervisor Sullivan commended the highway crew on doing a nice job on the infield for the ball park.

Code Enforcement Officer Chip LeValley stated it was a routine month for the code office. He contacted the Village of Alfred regarding their chicken coop law. It was enacted in 2003 and they have had no other problems since. The law was started over one coop there as well. Chip stated they need to start to implement Part 171 of the town rental code regarding some properties. He stated that probation fees need to be charged. If tenants keep clean for 12 months the owner will get the money back. The properties that are in violation are on Wall Street and Westmont Avenue.

Buildings and Grounds Custodian Scott Eschbach, will be attending a baseball field meeting with the baseball committee on Wednesday night. They hope to finish up the field for play next year. Scott stated they will be putting roofs on the dugouts and concrete in the dugouts. Infield work will be completed this fall. To date he has no further news on the completion of the fence. The pool is closed and covered for the winter, however the filter and chemicals are still being used because of the air temperature which is still very warm. Scott stated that very minimal chemicals are being used but must be maintained so that the pool does not turn green. He reported that repair work was completed on the tennis courts at the end of August. A tournament was held this weekend. At the Town Community Center we have acquired a range and microwave and we may now need to have some cabinets installed. Scott stated he will discuss this with Dave and see what is available in the budget for this.

Public Comments:

Charlene Prior, Country Club Drive, wished to thank the police chief and his staff for curbing all the extra activity going on in the town. She also stated she is teaching a matter of balance class at the community center and would love to have a TV with a DVD player for this class. Right now they are in the small room and using her laptop and it is quite small to view the videos for the entire class to see.

Joe Coletta, Hendy Avenue, thanked Highway Superintendent Matt Mustico and his crew for the great job on resurfacing Hendy Avenue. However, now he stated that the speeders are out. He asked the police department if it was possible to put the radar unit out there to alert the speeders of the speed limit. He stated that mornings seem to be the busiest time for the speeders.

Betty Bonsignore, Deerefield Road, wished to compliment all the department heads especially the highway superintendent and the police chief on all the hard work that they are doing. It makes a big difference in the town.

Resolution #115-16

Adopt Local 1-2016 to Amend Code of the Town of Elmira by Amending Article 1, Section 61.1 Keeping of Unauthorized Animals

By Mr. Allison

Seconded by Mr. Bush

Whereas a resolution was duly adopted by the Town Board of the Town of Elmira for a public hearing to be held by said Board on September 19, 2016 at 7:00 P.M. at 1255 W. Water Street, Elmira, NY to hear all interested parties on proposed Local Law 1-2016 to Amend Code of the Town of Elmira by Amending Article 1, Section 61.1 Keeping of Unauthorized Animals; and Whereas a notice of said public hearing was duly advertised in the Star Gazette, the official newspaper of the Town of Elmira on September 1, 2016; and

WHEREAS said public hearing was duly held on September 19, 2016 at 7:00 P.M. at 1255 W. Water Street, Elmira, NY and all parties in attendance were permitted an opportunity to speak on behalf or in opposition of said proposed Local Law, or any part thereof and

WHEREAS, the Town Board of the Town of Elmira after due deliberation finds it in the best interest of the Town to adopt the said Local Law;

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Elmira hereby adopts Local Law 1-2016 to Amend Code of the Town of Elmira by Amending Article 1, Section 61.1 Keeping of Unauthorized Animals; and

BE IT FURTHER RESOLVED, that the Town Clerk be and is hereby directed to enter said Local Law in the minutes of this meeting and in the Local Law book of the Town of Elmira and to give due notice of the adoption of said Local Law to the Secretary of State of New York.

§ 61-1. Keeping of unauthorized animals.

- A. The purpose of this Article is to protect the safety and health of the inhabitants of the Town; to establish safeguards for the keeping of bees, animals and poultry within the Town; and to provide for penalties for the violations thereof.
- B. This Section 61-1 shall apply only in Fire District No. 1 or No. 2 of the Town.
- C. No person shall keep or harbor any bees, ducks, geese or other domesticated fowl, cattle, horses, sheep, goats, pigs or swine.
- D. Any beehive used or occupied by bees; or coop or other structure used or occupied by ducks, geese or other domesticated fowl; or any structure occupied by cattle, horses and sheep; or goat pen, pig sty or other structure for the housing of goats, pigs or swine is hereby declared to be a nuisance; and it shall be unlawful to keep or maintain any such hive, coop, pen, sty or other structure used for such.
- E. Persons residing in Fire District No. 1 or No. 2 of the Town may keep up to six hens, but no roosters, housed in coops/pens on their property.
 - 1. Coops or other structures used or occupied by chickens or manure compost process or activity (“Chicken Area”) must be located at least 20 feet from the owner’s residence, 50 feet from any other dwelling and 20 feet from any lot line.
 - 2. The Chicken Area must be kept clean and free from noxious odors.
 - 3. Following site plan approval by the Planning Board after public hearing as provided for in Chapter 217 Article VII, the Code Enforcement Officer shall issue a permit. The site plan must provide a plan to manage the manure created by the chickens, the location of the Chicken Area, the setbacks from dwellings and dimensions of the coop, which shall be no more than 12 feet by 12 feet.
- F. Animals commonly considered household pets including but not limited to dogs, cats, parakeets, house rabbits, fish, may be kept in a clean and sanitary manner, housed inside the principal residence and are not offensive or dangerous.
- G. A violation of this local law shall be punished by a fine of not less than \$50 or more than \$250 and/or the revocation of any permit and removal of any structures constructed with or without a permit. A violation shall constitute a nuisance per se.

Aye- Bush, Milliken, Allison, Sullivan

No- Krusen

Resolution #116-16

Adopt Local Law 2-2016 Override the Tax Levy Limit established in General Municipal Law §3-c

By Mr. Milliken

Seconded by Mrs. Krusen

Whereas a resolution was duly adopted by the Town Board of the Town of Elmira for a public hearing to be held by said Board on September 19, 2016 at 7:00 P.M. at 1255 W. Water Street, Elmira, NY to hear all interested parties on proposed Local Law 2-2016 Override the Tax Levy Limit established in General Municipal Law §3-c; and

Whereas a notice of said public hearing was duly advertised in the Star Gazette, the official newspaper of the Town of Elmira on September 1, 2016; and

WHEREAS said public hearing was duly held on September 19, 2016 at 7:00 P.M. at 1255 W. Water Street, Elmira, NY and all parties in attendance were permitted an opportunity to speak on behalf or in opposition of said proposed Local Law, or any part thereof and

WHEREAS, the Town Board of the Town of Elmira after due deliberation finds it in the best interest of the Town to adopt the said Local Law;

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Elmira hereby adopts Local Law 2-2016 Override the Tax Levy Limit established in General Municipal Law §3-c; and

BE IT FURTHER RESOLVED, that the Town Clerk be and is hereby directed to enter said Local Law in the minutes of this meeting and in the Local Law book of the Town of Elmira and to give due notice of the adoption of said Local Law to the Secretary of State of New York.

Override the Tax Levy Limit Established in General Municipal Law §3-c

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

Section 1. Legislative Intent

It is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the Town of Elmira pursuant to General Municipal Law §3-c, and to allow the Town of Elmira to adopt a budget for the fiscal year 2017 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law §3-c.

Section 2. Authority

This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorized the town board to override the tax cap by the adoption of a local law approved by vote of sixty percent (60%) of the Town Board.

Section 3. Tax Levy Limit Override

The Town Board of the Town of Elmira, County of Chemung is hereby authorized to adopt a budget for the fiscal year 2017 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law, §3-c.

Section 4. Severability

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, 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 shall take effect immediately upon filing with the Secretary of State.

Aye- Bush, Milliken, Allison, Krusen, Sullivan

No- None

Resolution #117-16

Set date for special meeting to accept tentative budget for 2017

By Mr. Milliken

Seconded by Mrs. Krusen

Motion was made to set the date of October 3, 2016 at 5:00 P.M. for a special town board meeting to accept the 2017 Tentative Budget.

Aye- Bush, Milliken, Allison, Krusen, Sullivan

No- None

Resolution #118-16

Set public hearing for Local Law #3 Opt Out of Section 487 of the New York State Real Property Tax Law

By Mr. Bush

Seconded by Mrs. Krusen

Whereas the Town Board of the Town of Elmira seeks public comment with regard to Local Law 3-2016 Opt Out of Section 487 of the New York State Real Property Tax Law; and Whereas the Board desires to hold a public information meeting with respect to the consideration of Local Law 3-2016;

Now Therefore Be It Resolved that a public information meeting will be held by this Board with respect to the above described matters at 7:00 P.M. on Monday, October 17, 2016 at the Town Hall, 1255 W. Water Street, Elmira, New York; and

It Is Further Resolved, that the Town Clerk is hereby authorized and directed to cause public notice of said hearing to be given as provided by law.

Aye- Bush, Milliken, Allison, Krusen, Sullivan

No- None

On a motion by Mrs. Krusen and seconded by Mr. Allison the board went into an executive session at 8:00 P.M. to discuss matters of a personnel issue.

On a motion by Mr. Allison and seconded by Mr. Bush the board went out of executive session at 8:30 P.M.

On a motion by Mr. Milliken and seconded by Mr. Allison the meeting was adjourned at 8:31 P.M.

Jo Ann Sherwood, Town Clerk