

At the regular meeting of the Town Board of the Town of Elmira, Chemung County, New York held Monday, December 20, 2021 at 7:00 PM at 1255 West Water Street, Elmira, NY, there were present:

Supervisor: David Sullivan- Excused
Deputy Supervisor Ron Allison
Councilmember: Thomas Milliken
Councilmember: Scott Bush
Councilmember: Albert Lucarelli

Others present
Town Clerk- Tammy Stein
Attorney- Scott Moore
Police Chief- Robert Richards
Code Enforcement Officer- Eric Crandall
Highway Superintendent- Matt Mustico
Recreation Coordinator- Patty Carozza

Deputy Supervisor Allison called the Town Board meeting to order at 7pm and asked others to stand for the Pledge of Allegiance

Public Hearing

At 7:04 pm Town Attorney Scott Moore read proof of the publication of notice of December 6, 2021 of notice of public hearing for the purpose to amend Chapter 160 of the Peddling and Soliciting ordinance. The hearing was declared open and anyone wishing to present written or oral comments in favor was invited to do so. When no one wished to speak in favor of the amendment, those wishing to speak in opposition were invited to do so. When no one wished to speak in opposition, the hearing was declared closed at 7:04 pm.

At 7:05 pm Town Attorney Scott Moore read proof of the publication of notice of December 10, 2021 of notice of public hearing for the purpose to amend the Ordinance of Chapter 210, Vehicle and Traffic Section 210-4F the hearing was declared open and anyone wishing to present written or oral comments in favor was invited to do so. When no one wished to speak in favor of the amendment, those wishing to speak in opposition were invited to do so. When no one wished to speak in opposition, the hearing was declared closed at 7:06 pm.

Resolution #174-21

Minutes

By Mr. Bush

Seconded by Mr. Lucarelli

Motion was made to approve the minutes of the regular meeting of November 15, 2021 and Workshop on December 6, 2021.

Aye- Bush, Milliken, Lucarelli, Allison

No- None

Resolution #175-21

Transfer

By Mr. Lucarelli

Seconded by Mr. Milliken

Whereas the Town of Elmira, through an agreement with NYSEG, completed the conversion of 605 street lamps to LED lamps and the Town of Elmira residents will pay lower energy costs as a result of this project, and

Whereas the Town of Elmira has received substantial funding through the American Rescue Plan to fund projects that will benefit its residents,

Therefor be it resolved the Town Board hereby authorizes the transfer of \$16,139.16 from the Town’s American Rescue Plan account (ending 3798) to the Town’s General Checking Account to pay NYSEG for the completed LED conversion project.

Aye-Bush, Milliken, Lucarelli, Allison

No- None

Resolution #176-21

Audit of Bills

By Mr. Bush

Seconded by Mr. Lucarelli

Resolved that all claims in the total amount of \$128,467.01 were audited and approved for payment when in funds.

Early Audit

General Fund	12817.97
General Fund (outside village)	2838.53
Traffic Fund	9183.96
Park Fund	<u>1113.34</u>
	25953.80

Regular Audit

General Fund	18725.55
General Fund (outside Village)	30210.45
Highway Fund	13320.61
Lighting Fund 1	22279.06
Lighting Fund 2	67.90
Lighting Fund 3	223.90
Lighting Fund 4	55.90
Lighting Fund 5	21.90
Traffic Fund	6568.03
Park Fund	10480.55
Trust & Agency	<u>559.36</u>

102513.21

Aye-Bush, Milliken, Lucarelli, Allison

No- None

Department Reports

Recreation Coordinator- Patty Carozza stated that she had a few rentals in December and so far, a few in January and February. The regular groups are still attending. Patty discussed the lighting on the road leading to the Community Center. Deputy Supervisor Allison thanked Patty for her

involvement as well as the Fire Department for their First Tree lighting ceremony stating that it was a good turn out and a very nice event. Councilmember Lucarelli agreed and said it seemed like everyone who attended had a great time.

Police Chief- Bob Richards read his report regarding the calls, arrest and other reporting incidents for November. He stated that David Cook has finished Academy and has started his field work with the Department. Chief Richards stated that his department participated in the Thanksgiving STOP DWI crackdown event as well as the Shop with a Cop event.

Highway Superintendent- Matt Mustico informed the board that they completed leaf pickup for the season. It lasted longer than usual due to the times when the leaves were falling. They went around the town several times doing pickups. One of the guys has been working on sweeping the road when weather permits. They have been trimming trees as well. Matt stated that they received the new truck and are very pleased with it.

Code Enforcement Officer- Eric Crandall stated that November was a good month he is on track with his projected budget for the end of the year. He stated that the W. McCanns property has been completed and is all taken care of. The Ferndell property has also been remedied. The Town Board discussed the Greenridge property with Eric.

Discussion

Recreation Coordinator- Patty Carozza stated that she loves the trees that have been planted on the Town property. She also informed the Board about some events that the Fire Department are planning for 2022.

Lynn Pirozzolo informed the board that Dave and others will be taking down the Pirozzolo Park sign in hopes to have it restored. They have reached out to business' and are hoping to get it restored to use the same sign rather than replacing it as it's been there for approximately 30 years.

Councilmember Bush stated that he discussed with Supervisor Sullivan the 2004 Ford Dump truck that was surplused in November (resolution 174-21). They would like with the Town Boards permission to donate it to Forest Lawn Memorial Park Cemetery. The Cemetery asked for the Towns help with plowing and if the board donates this truck it comes with a plow at which they would be able to plow themselves.

Attorney Scott Moore discussed the Traffic tickets with the board and would like to discuss adding more to that ordinance at a future workshop.

Resolution #177-21

Amend Resolution 135-01, Chapter 160, Peddler and Soliciting ordinance

By Mr. Bush

Seconded by Mr. Lucarelli

Motion was made to amend Resolution 135-01, Chapter 160, Peddler and Soliciting ordinance to read

Chapter 160

Peddling and Soliciting

[HISTORY: Adopted by the Town Board of the Town of Elmira 8-20-2001 by L.L. No. 1-

2001. Amended 12-20-2021

GENERAL REFERENCES

Streets and sidewalks — See Ch. 193.

§ 160-1 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ESTABLISHED PLACE OF BUSINESS

Includes a building or store in which or where a person transacts business and deals in the goods or services, he or she offers for sale for during regular business hours.

PEDDLER

Includes, except as hereinafter expressly provided, any person, either principal or agent, who goes from place to place, or house to house, who stands in any street or public place, and sells or barter, offers for sale or barter, or carries or exposes for sale or barter any goods, or services, including making, manufacturing or repairing any article, to be performed now or in the future.

SOLICITOR

Any person, either principal or agent, traveling either by foot or by any conveyance from place to place, from house to house or from street to street or any combination thereof, who takes or offers to take orders for the sale of any goods, wares or merchandise, for present or future delivery or for the performance of future service, whether or not he or she collects advance payments for such sale or service. For the purposes of this chapter, the entity which engages a person or his or her agent for the purpose of soliciting, is also considered a solicitor within the meaning of this section and is subject to the provisions of this chapter.

CANVASSER

Any person who, by going from house to house thereof, seeks to raise funds, petitions, solicits membership, disseminates information or conducts activities which would not be characteristic of a peddler or solicitor

§ 160-2 Exceptions.

Nothing in this chapter shall be held to apply:

- A. to any sales conducted pursuant to statute or by order of any court; or
- B. to any person selling personal property at wholesale to dealers in such articles; or
- C. to merchants having an established place of business within the Town or their employees for soliciting orders from customers and delivering the same;
- D. to farmers and truck gardeners who themselves or through their employees vend, sell or dispose of products of their own farms and gardens; or
- E. so as unlawfully to interfere with interstate commerce: or
- F. any candidate running for a governmental office, or his or her representative.
- G. A person who solicits, canvasses or peddles on behalf of a charitable, religious, athletic, educational or civic organization, including but not limited to groups or clubs, classes or

organizations sponsored by public or private school.

- H. Nonprofit charitable organizations. However, such organizations shall register annually with the Clerk, and will indicate the type of activities to be undertaken and the times when they will be performed.

§ 160-3 License required.

No person shall act as a peddler, canvasser or solicitor within the Town of Elmira without having in force and effect a license therefor issued to him or his employer.

§ 160-4 Application for license.

- I. Any person desiring a license as herein provided shall file with the Town Clerk upon a form furnished by the Town a written application containing the name and residence address and business address of the applicant, the kind of business, the wares and merchandise to be sold or the kind of service to be performed, the method of distribution, the number and kind of vehicle to be used in carrying out the activities listed and such other information as may be required by the Supervisor. Such application shall be accompanied by a cash deposit of the fee for the license, which fee shall be \$100.00 for an applicant using not more than one motor vehicle and a further fee of \$25.00 for each additional person to be used in carrying out the activities.
- J. Upon the receipt of a properly completed application and of the required fee, the Clerk shall grant a license authorizing the applicant to act as a peddler within the Town for a period expiring December 31st of the year the license is issued or the Clerk, and/or the Supervisor, may refuse to grant such license for a specific reason specified in section 161-10 for the protection of the public safety, health, property, morals or general welfare and return the fee to the applicant.
- K. Any person filing for a license shall remit to the Town Clerk a Certificate of Liability naming the Town of Elmira as an additional insured with an amount of no less than \$1 Million.
- L. Any person filing for a license shall be subject to a background check administered by the West Elmira Police Department. Each person whom will be canvassing, soliciting or peddling is required to turn in a copy of their current driver's license.

§ 160-5 Use of license.

A license issued under this chapter shall extend only to the person to whom it is issued or, if the licensee is other than a natural person, to its agent or employee acting in the course of the business of the licensee, and a license shall be valid only for the purposes contained on the application for such license.

§ 160-6 Display of license.

Every person under this chapter shall produce for inspection the license required by this chapter upon demand of any resident, town official, magistrate or police officer, and a failure to produce a valid license shall be a violation of this chapter.

§ 160-7 Permitted hours.

No peddlers shall perform any permitted activity in the Town of Elmira before 10:00 a.m. and after 7:00 p.m.

§ 160-8 Revocation of license.

The Clerk, and/or the Supervisor, may revoke any license issued under this chapter at any time for a violation of this chapter. When a license is revoked, no refund of any portion of the license fee shall be made. Notice of such revocation and the reason or reasons, in writing, shall be served upon the licensee named in the application, personally or by mailing in a postpaid wrapper, to the business or residential address given in the application for such license.

The license shall not be transferable or assignable. Should a licensee permit any other person to possess or use such license, such license shall automatically be revoked, the licensee shall thereby be guilty of violating this chapter, and no application for future license may be made within two years of revocation.

§160-9 Regulations.

- A. Unlawful sales. A licensee shall not falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale or offer for sale any unwholesome, B. tainted or diseased provisions or merchandise.
- C. Sanitary Conditions. A licensee shall keep the vehicle or receptacle used by him or her in a clean and sanitary condition and the food stuff and edibles offered for sale well covered and protected from dirt, dust and insects.
- D. Noise. A licensee shall not blow a horn, ring a bell or use any other noisy devise so as to create a public nuisance.
- E. Obstructions. A licensee shall not create or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street, sidewalk, right-of-way, or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.
- F. Hours. A licensee may not sell or vend within 250 feet of any school property between the hours of 8:00am and 4:00pm on school days nor enter upon private property for the purpose of peddling, soliciting or canvassing before the hours of 10:00am or after the hours of 7:00pm any day.
- G. Permitted Place. The licensee may perform his or her respective acts and occupations at any place in the Town of Elmira except on property owned or leased by the Town of Elmira or any district thereof or on property owned by any school district, or otherwise prohibited by the owner for the conduct of business.
- H. Use of public streets. None of the foregoing licensee shall use any of the public streets or government property within the Town of Elmira as standing places for their vehicles, handcars or pushcarts for the conduct of business.
- I. Identification. The licensee shall wear or exhibit identification for their company or self.

They shall not portray in any way they are affiliated as a Town of Elmira employee.

§ 160-10 Appeal

- A. Any person aggrieved by the action of the Town Clerk and/or Supervisor in the denial of an application for a license or revocation of a license, as provided in this chapter, shall have the right to appeal to the Town Board.
- B. Such appeal shall be taken by filing, within 14 days after notice of the action complained of has been mailed to such person’s last known address, as shown on the application, a written statement setting forth fully the grounds for the appeal.
- C. The Town Board shall set a time and place for a hearing on such appeal, and notice of such hearing shall be mailed to the applicant at his or her last known address at least 5 days prior to the date set for the hearing.
- D. The granting, refusal, revocation or suspension of a license or permit by the Town Board shall be subject to review pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York. Any such Article 78 proceeding must be commenced within 30 days of the mailing of notice of the action sought to be reviewed.
- E. The decision of the Town Board on such appeal shall be final and conclusive.

§ 160-11 Penalties for offenses.

Any person, firm or corporation who or which violates any provision of this chapter shall, upon conviction, be punished by a fine not to exceed \$500.00.

Aye-Bush, Milliken, Lucarelli, Allison

No- None

Resolution #178-21

Amend Resolution 135-21, Chapter 210 Vehicle and Traffic Section 210-4F

By Mr. Lucarelli

Seconded by Mr. Milliken

Motion was made to amend Resolution 135-21, Chapter 210 Vehicle and Traffic Section 210-4F to read

F. **Odd Even Parking.** From November 1st to April 1st, no vehicle shall be or remain parked on streets within Traffic District No. 1 or Chapman Place or Wesley Place within the Town of Elmira between the hours of 2:00 a.m. and 7:00 a.m., except as follows:

- (a) On days with even numbers according to the calendar, on the side of any street on which the properties bear even street numbers.
- (b) On days with odd numbers according to the calendar, on the side of any street on which the properties bear odd street numbers.

Aye- Bush, Milliken, Lucarelli, Allison

No- None

Resolution #179-21

Set date and time for 2022 Organizational Meeting

By Mr. Bush

Seconded by Mr. Lucarelli

Motion was made to set January 3, 2022 at 8:00am as the date and time for the Organizational meeting for 2022.

Aye-Bush, Milliken, Lucarelli, Allison

No- None

Resolution #180-21

Set date and time for January 2022 Meeting

By Mr. Bush

Seconded by Mr. Milliken

Motion was made to set January 24, 2022 at 7:00pm as the date and time for the January 2022 meeting.

Aye-Bush, Milliken, Lucarelli, Allison

No- None

Resolution #181-21

Set date and time for 2021 Annual Audit Meeting

By Mr. Milliken

Seconded by Mr. Lucarelli

Motion was made to set January 24, 2022 at 7:00pm as the date and time for the 2021 Annual Audit meeting.

Aye-Bush, Milliken, Lucarelli, Allison

No- None

Resolution #182-21

Accept Resignation of Part Time Traffic District 1 Officer, Michael Marrone

By Mr. Milliken

Seconded by Mr. Bush

Motion was made to accept with regret the resignation of Part Time Traffic Officer Michael Marrone effective December 5, 2021.

Aye-Bush, Milliken, Lucarelli, Allison

No- None

Approve increase in Parking violation fee from \$15.00 to \$25.00- TABLED

Resolution #183-21

Approve 2022 fee schedule for Code permits and applications

By Mr. Milliken

Seconded by Mr. Lucarelli

Motion was made to approve the 2022 fee schedule for Code permits and applications effective January 1, 2022 as follow,

PERMIT & APPLICATION FEE SCHEDULE

- Permits required for, but not limited to: New Buildings, Alterations, Decks, Sheds, Electrical, Plumbing, Fences, Signs, Pools, Solid-fuel Burners, Roofing, Sidewalks, Sprinkler Systems

	<i>Cost of Job</i>	<i>Fee</i>		<i>Cost of Job</i>	<i>Fee</i>
\$1	- \$1000	\$20	\$15001	- \$16000	\$ 95
\$1001	- \$2000	\$25	\$16001	- \$17000	\$100
\$2001	- \$3000	\$30	\$17001	- \$18000	\$105
\$3001	- \$4000	\$35	\$18001	- \$19000	\$110
\$4001	- \$5000	\$40	\$19001	- \$20000	\$115
\$5001	- \$6000	\$45	\$20001	- \$21000	\$120
\$6001	- \$7000	\$50	\$21001	- \$22000	\$125
\$7001	- \$8000	\$55	\$22001	- \$23000	\$130
\$8001	- \$9000	\$60	\$23001	- \$24000	\$135
\$9001	- \$10000	\$65	\$24001	- \$25000	\$140
\$10001	- \$11000	\$70	\$25001	- \$26000	\$145
\$11001	- \$12000	\$75	\$26001	- \$27000	\$150
\$12001	- \$13000	\$80	\$27001	- \$28000	\$155
\$13001	- \$14000	\$85	\$28001	- \$29000	\$160
\$14001	- \$15000	\$90	\$29001	- \$30000	\$165
\$15,001 to \$50,000 \$95.00 plus \$5.00 per thousand or fraction thereof, over \$15,001					
Over \$50,001 \$265 plus \$2.00 per thousand or fraction thereof, over \$50,001					

- Certificate of Occupancy: \$.03 per square foot of building size.
- Demolition: \$.05 per square foot of structure size. Minimum fee \$20. Max. \$5,000.
- Logging Permits: \$50.00
- Variance Application: \$ 50.00
- Sub Division and Site Plan Review Application: \$ 75.00

The Town requires **proof of liability insurance** in the amount of \$1,000,000, general aggregate, and **Worker's Compensation and Disability insurance**. The Town must be named as a Certificate Holder on all policies. A state provided CE-200 form, or Owner provided BP-1 form may substitute for required evidence of Worker's Compensation insurance.

When a permit is required, the Permit Fee for work started prior to the issuance of a Permit shall be **twice the regular fee, plus a penalty of \$250**. In the event an emergency situation arises when the Permit issuing office is closed, work may be commenced, but the Permit must be secured as soon as it is available.

Building Permits are effective for a period of one year from the date of issuance. For good cause shown, the Permit holder may obtain a **maximum of two extensions of one year each** at a cost of **half of the original permit cost, or a minimum of \$50**, whichever is the greater amount. After the termination of the second extension, the Permit holder may apply for a Building Permit renewal and if it is granted, the charge for the Building Permit renewal will be the same as the original fee.

Aye-Bush, Milliken, Lucarelli, Allison

No- None

Motion was made by Councilmember Milliken at 7:35pm and seconded by Councilmember Bush to adjourn the regular meeting. All in favor, Motion Carried

Tammy Stein
Town Clerk