

MINUTES OF THE TOWN BOARD MEETING OF DECEMBER 9, 2015

PRESENT: Supervisor Edward Fairbrother
Council Bob Adams
Lee Giammichele
Mike Saglibene
Attorney Thomas Reilly
Town Clerk Linda Cross
ABSENT: Council Andy Gillette

Supervisor Fairbrother called the Town Board Meeting to order at 4:00 p.m. and requested those present to participate in the Pledge of Allegiance.

CONCERNS OF THE PEOPLE - None

REPORTS

Supervisor Fairbrother stated the following reports for November 2015 have been received and are on file in the office of the Town Clerk:

Town Clerk's Monthly Report, Supervisor's Fund Balance Report, Youth Department Monthly Report, Department of Public Works Monthly Report, Code and Planning Department Monthly Report, Community Center Monthly Report, Court's Monthly Report, Dog Control's Monthly Report.

NEW BUSINESS

RESOLUTION NO. 241-15
RESCINDING RESOLUTION 228-15, OVERRIDING THE TAX CAP AS LOCAL
LAW NO. 3 APPROVED

Resolution by: Giammichele
Seconded by: Adams

WHEREAS the Town Board after adopting the town's 2016 budget and reviewed by the Office of Controller of the State of New York during a 2015 audit of the Tax Cap, and

WHEREAS filing the Tax Cap on line with the Office of Controller for 2016, show that the Town of Big Flats did not exceed the Tax Cap for the year of 2016, and

WHEREAS the is not a need for the Local Law no. 3, and

WHEREAS for environmental review purposes, interpreting an existing code, and adoption of regulations, policies, or procedures and local legislative decisions are Type II action in accordance with SEQRA 6 NYCRR, Part 617.5 (c) (20) and as such no further action is necessary regarding the same, now

THEREFORE BE IT RESOLVED the Big Flats Town Board rescinds Local Law No. 3, adopted in Resolution No 228-15 as the Tax Cap for 2016 was not exceeded.

CARRIED: AYES: Giammichele, Adams, Saglibene, Fairbrother
NAYS: None ABSENT: Gillette

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RESOLUTION NO. 242-15
BUDGET TRANSFERS & AMENDMENT APPROVED

Resolution by: Adams
Seconded by: Saglibene

WHEREAS a memorandum was received from the Bookkeeper, dated December 2, 2015 requesting authorization budget transfers for the following overspent budgets, and for a budget amendment to the 2015 General Fund budget:

WHEREAS for environmental review purposes, administration is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5 (c) (20) and as such further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board authorizes the Bookkeeper to fulfill the following Transfers and Budget Amendment

Budget Transfers-General Fund

Please authorize a budget transfer for the following overspent budgets:

To	Elections-PS—CE-A.1450.0100	470	
From	Elections CE-A.1450.0400		470
To	Refuse & Garbage-CE-A.8160.0400	2,500	
	From Hospital & Medical Ins-A.9060.0800		2,500

The Youth department has received a five hundred dollars (\$500) donation from Tops Supermarket Inc. –Big Flats branch in honor of their store reopening. A budget amendment is necessary to accommodate the appropriation of said amount.

Budget amendment

Please authorize a budget amendment to the 2015 General Fund budget:

Increase Estimated Revenues-A.0510	500
Increase Gifts & Donation –A.2705.0002	500
Increase Appropriations-A.0960	500
Increase Youth -CE-A.7310.0400	500

Highway Fund

To	Permanent Improvements-CE-5112.0400	5,000	
From	Hospital & Medical Ins-D.9060.0800		5,000

CARRIED: AYES: Giammichele, Adams, Saglibene, Fairbrother
NAYS: None ABSENT: Gillette

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RESOLUTION NO. 243-15
ABSTRACT OF AUDITED VOUCHERS FOR DECEMBER 9, 2015 APPROVED

Resolution by: Saglibene
Seconded by: Giammichele

RESOLVE that the Town of Big Flats approve the Abstract of Audited Vouchers for December 9, 2015, and order the bills paid, when in funds, for the following:

GENERAL FUND	\$ 38,495.56
HIGHWAY FUND	\$ 49,213.43
H12-WD 4&5 CAPITAL PROJECT #12	\$ 2,826.31
WATER DISTRICT #4	\$ 148.09
WATER DISTRICT #5	\$ 8,063.95
TRUST & AGENCY	\$ 1,782.57

CARRIED: AYES: Giammichele, Adams, Saglibene, Fairbrother
NAYS: None ABSENT: Gillette

RESOLUTION NO. 244-15
INTERMUNICIPAL AGREEMENT BETWEEN THE TOWN OF HORSEHEADS
AND THE TOWN OF BIG FLATS APPROVED

Resolution by: Giammichele
Seconded by: Adams

WHEREAS, the Towns recognize the need to share services within Chemung County to more efficiently utilize the tax dollars of our residents; and

WHEREAS, Chemung County has begun a process to seek out opportunities for shared services; and

WHEREAS, the Towns have determined that such a shared services opportunity exists; and

WHEREAS, the General Municipal Law authorizes municipalities to enter into inter-municipal agreements, and

WHEREAS, Big Flats is in need of assessor services, and

WHEREAS, Horseheads has in its employment personnel qualified in assessor services, now

BE IT THEREFORE RESOLVED the Town Board Authorizes the Town of Big Flats Supervisor to sign the following agreement which is agreed to by the Town of Horseheads:

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ASSESSOR SERVICES

THIS AGREEMENT, made as of this 9th day of December, 2015, by and between the **TOWN OF HORSEHEADS**, 150 Wygant Road, Horseheads, NY, 14845, hereinafter referred to as “Horseheads” and the **TOWN OF BIG FLATS**, 476 Maple St., Big Flats, NY 14814, hereinafter referred to as “Big Flats.”

1. Effective January 1, 2016, Horseheads shall provide to Big Flats the services of an individual, who will provide assessor services throughout the term of this Agreement. The Horseheads employee assigned to Big Flats for the above purposes will be referred to as Big Flats’ Town Assessor. The individual so assigned shall be and is hereby authorized and empowered to maintain assessments at a uniform percentage of market value each year in accordance with New York State law, as though the individual was an employee of Big Flats. The individual assigned to Big Flats shall possess all the necessary skills, training, education, and certifications necessary or reasonably required to perform the duties and responsibilities of such position as required by law and under this Agreement.
2. Horseheads agrees that its assessor shall be available to Big Flats during regular work hours on Tuesday and Thursday of each week or as otherwise agreed to by the parties.
3. This Agreement shall be effective commencing January 1, 2016 and terminate on December 31, 2016, and shall renew annually for four (4) successive annual periods, unless sooner terminated.
4. This Agreement may be terminated by either party by written notice to the other at least 90 days prior to the effective date of the termination.
5. Big Flats shall pay to Horseheads for the services to be provided under this Agreement the annual sum of \$65,000.00. Said sum shall be paid in monthly installments as follows: The sum of \$7,250.00 on or before January 1 of each year and the sum of \$5,250.00 from February 1 through December 31, .
6. The Assessor shall receive from Horseheads, or under its auspices, any and all training and certification necessary for the effective implementation of this Agreement.
7. The parties agree that the status of the Horseheads personnel selected to supply the services required hereunder shall be independent contractors. The Assessor shall be an employee of Horseheads. The assessor aide(s), if any, shall be an employee(s) of Horseheads. Neither Horseheads nor its personnel will hold themselves out as employees of Big Flats. Horseheads shall be responsible for providing to its personnel any and all salary, wages, and benefits of employment.

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8. Both parties agree that they will, at their own expense, indemnify, defend and hold harmless each other, its officers, agents and employees from any and all liability, judgment costs, damages, attorney's fees and expenses by reason of any act, failure to properly act, or negligence of its employees or by not adhering to the guidelines as established by either of the Towns or the New York State Department of State in the provision and performance of work, labor and services as set forth in this Agreement, providing, however, that timely notice shall be given by each party to the other of any claim that maybe asserted with regard to the work, labor and services set forth in this Agreement. Each party will obtain and keep in force and effect during the term of this Agreement general liability and public liability insurance in the amount of \$1,000,000 to cover liability and will make the other municipality the named insured on said policy. Each party agrees that a representative will provide the necessary documentation and testimony in court, arbitration or other legal proceedings if and when the other party so desires without cost or expense to the other party.
9. The Town Supervisors shall meet not less than semi-annually during the term of this Agreement and any successor agreements to evaluate the progress of the relationship evidenced by this Agreement and evaluate a continued future relationship between the Towns. It is agreed that minor changes in the provisions of this Agreement may be made, in writing, by agreement of the said Town Supervisors without further action by the Town Boards of Big Flats and Horseheads, if such authority is granted to the Town Supervisor by their respective boards.
10. In accordance with General Municipal Law Section 109, the parties agree that this Agreement may not be assigned, transferred, conveyed or otherwise disposed of without the prior written consent of the other party.
11. No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving such breach.
12. This Agreement constitutes the complete understanding of the parties. It may only be amended, varied, modified or waived by written agreement executed by authorized signatories of the parties.
13. This Agreement shall be construed in accordance with the laws of the State of New York.
14. If any provision of this Agreement is deemed to be invalid or inoperative for any reason, that part shall be deemed modified to the extent necessary to make it valid and operative, or if it cannot be so modified then severed and the remainder of the agreement shall continue in full force and effect as if the Agreement had been signed with the invalid portion so modified or eliminated.

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15. All notices and payments hereunder shall be in writing, mailed first class or delivered by hand to the address of the other party as set forth below, and shall take effect when mailed or when received if delivered by hand.

Town of Big Flats
476 Maple St.
Big Flats, NY 14814

Town of Horseheads
150 Wygant Road
Horseheads, NY 14845

16. The parties agree that they shall periodically share such information with each other, hold such meetings and study such potential cooperative services between them and others as are likely to result in increased efficiencies, better service to the public, and cost savings to the taxpayers.

17. This Agreement shall supersede all prior agreements between the parties regarding this subject matter.

18. This Agreement shall not preclude either or both parties from entering into other cooperation or inter-municipal agreements outside of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the day and year first above written.

Dated: _____

TOWN OF HORSEHEADS

By: _____

Michael W. Edwards
Its: Town Supervisor

Dated: _____

TOWN OF Big Flats

By: _____

Edward Fairbrother
Its: Town Supervisor

CARRIED: AYES: Giammichele, Adams, Saglibene, Fairbrother
NAYS: None ABSENT: Gillette

SCHEDULE A

DUTIES AND RESPONSIBILITIES

TOWN ASSESSOR

The assessor is obligated by New York State law to maintain assessments at a uniform percentage of market value each year. The assessor signs an oath to this effect when certifying the tentative assessment roll. The physical description (or inventory) and value estimate of every parcel is required to be kept current. In order to maintain a uniform roll, each year the assessor will need to analyze all of the properties in the municipality to determine which assessments need to be changed.

Determine taxability and value of properties, using methods such as field inspection, structural measurement, calculation, sales analysis, market trend studies, and income and expense analysis.

Inspect properties, considering factors such as market value, location, and building or replacement costs to determine appraisal value.

Explain assessed values to property owners and defend appealed assessments at public hearings.

Prepare and maintain current data on each parcel assessed, including maps of boundaries, inventories of land and structures, property characteristics, and any applicable exemptions.

Establish uniform and equitable systems for assessing all classes and kinds of property.

Inspect new construction and major improvements to existing structures to determine values.

Complete and maintain assessment rolls that show the assessed values and status of all property in a municipality.

Analyze trends in sales prices, construction costs, and rents, to assess property values or determine the accuracy of assessments.

Review information about transfers of property to ensure its accuracy, checking basic information on buyers, sellers, and sales prices and making corrections as necessary.

Conduct regular reviews of property within jurisdictions to determine changes in property due to construction or demolition.

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Maintain familiarity with aspects of local real estate markets

Identify the ownership of each piece of taxable property.

Issue notices of assessments and taxes.

Approve applications for property tax exemptions or deductions.

Calculate tax bills for properties by multiplying assessed values by jurisdiction tax rates.

Provide sales analyses to be used for equalization of school aid.

Annually complete 12 hours of continuing education. In addition, certified assessors and county directors must complete an approved ethics course one year prior to or one year after re-appointment or re-election to office.
Supervise staff members.

Be accessible to residents via phone or in-person appointment.

Set office hours will be established on a monthly basis.

Staff Board of Assessment Review meetings.

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RESOLUTION NO. 245-15
BIG FLATS SUBSTANCE ABUSE POLICY APPROVED

Resolution by: Adams
Seconded by: Saglibene

WHEREAS, the Town of Big Flats is committed to provide a safe work environment and to also prevent the illegal use of drugs, working under the influence of drugs and also to attempt to assist employees who might be using such illegal substances; and

WHEREAS, the Town's Employee Handbook does address substance abuse issue; and

WHEREAS, the Handbook does not incorporate restrictions or rules on random or routine testing for illegal drugs; and

WHEREAS, the fact that the Town of Big Flats is part of the NY state governmental system places restrictions on the ability of the Town to require routine or random drug tests; and

WHEREAS, those restrictions make it prudent to outline a more comprehensive policy than is found in the Handbook and provide as complete and up to date statement as to the ability of the Town to conduct substance abuse tests; and

WHEREAS, for environmental purposes the administration of the Town personnel is a Type II action in accordance with SEQRA 6, NYCCR Part 617.5(c) (25) and as such no further action is required regarding the same, now

BE IT THEREFORE RESOLVED that the Town Board adopts the Substance Abuse Policy set forth below and directs that employees be provided with a copy of this policy and determines that to the extent this policy is stricter than what is in the Town Employee Handbook, it shall supersede what is in the handbook.

SUBSTANCE ABUSE POLICY STATEMENT

I. SUBSTANCE ABUSE POLICY

The Town of Big Flats is committed to providing a safe work environment and to fostering the well-being and health of its employees. That commitment is jeopardized when any Town employee illegally uses drugs on the job, comes to work under the influence of illegal drugs or alcohol, or possesses, distributes or sells drugs in the workplace. THIS POLICY SUPPLEMENTS THE POLICY CONTAINED IN THE EMPLOYEE HANDBOOK AND TO THE EXTENT IT IS STRICTER THAN THE HANDBOOK, THIS POLICY SUPERCEDES THE HANDBOOK. Therefore, The Town of Big Flats has established the following policy:

1. It is a violation of Town policy for any employee to possess, sell, trade,

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manufacture or offer for sale illegal drugs or alcohol or otherwise engage in the illegal use of drugs or alcohol on the job.

2. It is a violation of Town policy for anyone to work under the influence of illegal drugs or alcohol.

3. It is a violation of Town policy for anyone to use prescription drugs illegally or contrary to prescribed dosages and frequency thereof. (However, nothing in this policy precludes the appropriate use of legally prescribed medications.)

4. Violations of these policies are subject to disciplinary action up to and including termination.

It is the responsibility of the Town of Big Flats supervisors to counsel employees whenever they see changes in performance or behavior that suggest an employee has a drug or alcohol abuse problem. Although it is not the supervisor's job to diagnose personal problems, the supervisor will encourage such employees to seek help and advise them about available resources for getting help. Everyone shares responsibility for maintaining a safe work environment and co-workers should encourage anyone who may have a substance abuse problem to seek help.

Any provisions of this substance abuse policy statement that may not be in compliance with any local, state, or federal laws will be applied by the Town of Big Flats so as to be in compliance with such local, state, or federal laws.

The goal of this policy is to balance our respect for individuals with the need to maintain a safe, productive and drug-free environment. The intent of this policy is to offer a helping hand to those who need it, while sending a clear message that substance abuse is incompatible with employment with The Town of Big Flats.

II. DEFINITIONS

For the purposes of this drug-testing program, the following definitions will be applied:
Covered Individuals: All Town of Big Flats employees including those subject to DOT Drug Testing Regulations.

DOT Drug Testing Regulations: Department of Transportation procedures for Transportation Workplace Drug Testing Programs. Final Rule (49 CFR 40)

Prohibited Drugs: The following prohibited substances will be tested for under this Town policy:

Amphetamines, Cocaine, Opiates, Marijuana (except when medically prescribed), Phencyclidine (PCP), alcohol and any other substances determined by law to be prohibited and or illegal.

Medical Review Officer (MRO): A licensed physician or doctor of osteopathy knowledgeable in the area of substance abuse disorders who shall be responsible for review and evaluation of drug test results.

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Prescribed Drug: Any substance prescribed for individual consumption by a licensed medical practitioner.

Illegal Drug: Any drug or controlled substance the sale, possession or consumption of which is illegal.

SAMHSA Laboratory: A drug-testing laboratory certified by the Substance Abuse and Mental Health Services Administration "SAMHSA" (Formerly NIDA) National Institute of Drug Abuse.

Safety-sensitive or Security-sensitive Jobs: When asked to decide whether a particular position is security or safety-sensitive, the courts focus on the immediacy of the threat to safety of an individual or individuals or to the safety of any activity posed by a potential drug-induced mistake or failure in the performance of specific job duties. As the Supreme Court expressed it, a safety-sensitive position is one in which the duties involve "such a great risk of injury to others that even a momentary lapse of attention can have disastrous consequences." See *Skinner v. Railway Labor Executive's Association*, 489 U.S. 602 and *National Treasury Employees Union v. Von Raab*, 489 U.S. 656. Security-sensitive jobs are jobs that require high degrees of confidentiality and or secrecy in their functions and include positions with the potential to expose the Town to extensive liability and may include: 1) positions involving information technology, due to their responsibility for oversight and management of the institutions computer systems and accessibility to data; and 2) positions that handle financial transactions as a job responsibility. These responsibilities include, but are not limited to: approval authority within the accounting system, collecting and handling of cash or checks, writing or approving checks, and having access to a direct money stream. Before performing a random drug test on an employee, the Town should ensure that there is a safety or security issue involved in the person's job duties that would be affected by drug use. Since job duties and their safety or security sensitive nature is a fact issue, the Town should always consult with its attorney or local counsel before implementing a random drug testing policy or testing any employee for drug use.

III. PROHIBITED ACTIVITIES

The following activities are strictly prohibited (Offending individuals will be subject to the disciplinary action specified in Section 805 of the Employee Handbook regarding Drug-Free Workplace/Drug Free Awareness Program and as set forth below. In appropriate circumstances, these activities will be reported to law enforcement officials.):

Working under the influence of illegal drugs or alcohol, controlled substances, or prescription drugs used contrary to a doctor's instructions.

The unauthorized use, sale, transfer, possession, manufacture or purchase of illegal substances or drugs on the Town of Big Flats premises while on duty or while performing business activities for The Town of Big Flats.

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Use of illegal drugs, controlled substances, prescription drugs used contrary to a doctor or medical provider's instructions or without a valid and current prescription, or alcohol .

Refusal to participate in and successfully complete a qualified rehabilitation program, if required by the Town as a condition for continued employment with the town by any individual who has had a verified positive drug or alcohol test result, or on the part of any subject individual who recognizes that he/she has a substance addiction or dependence problem and has been directed to participate in and successfully complete such a program as a condition for continued employment by the Town..

Refusal to comply with the Town of Big Flats substance abuse testing schedules or instructions.

Conviction of a drug related offense, whether committed on or off the premises of the Town.

IV. SCOPE

All job applicants for safety-sensitive or security-sensitive positions for the Town of Big Flats will undergo testing for the presence in their system of illegal drugs or alcohol as a condition of employment and only after they have been offered a job conditioned on passing a drug test. See: Lanier v. City of Woodburn, 518 F.3d 1147 (2008). Any applicant with a verified positive test result may be denied employment. If an individual has been prescribed marijuana by his physician, or other medical provider that prescription should be provided before the test is given. Before determining that the position is safety-sensitive or security-sensitive there should be a review by the town attorney. The Town of Big Flats will not discriminate against applicants for employment because of a past history of drug abuse.

The Town of Big Flats will utilize testing practices to identify employees who use prohibited substances either on or off the job. It shall be a condition of employment for all employees to submit to substance abuse testing under the following circumstances: On a pre-employment exam and on any required annual or regularly scheduled physical examinations and on a random selection basis for employees in safety-sensitive or security-sensitive jobs. Security sensitive jobs involve the handling of sensitive information and to get such a job one will be required to undergo background investigations and/or medical examinations or other intrusions that diminish expectations of privacy. A safety-sensitive job is where a single mistake by the employee can create an immediate threat of serious harm to other individuals or property.

When an employee is involved in an on-the-job accident where personal injury or damage reasonable estimated to be over \$3,000 to Town property or personnel has occurred and when immediate and significant threats to public safety are involved, unless the employee was clearly not at fault in causing the accident. In a case where there has been personal injury, the injury must need medical treatment away from the scene of the accident or require immediate medical attention.

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When there is reasonable suspicion or “special needs” (See Skinner, Supra) to believe that an employee may be under the influence of illegal drugs or alcohol while on duty. A “reasonable suspicion” shall be based on specific contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee that leads one to believe that the employee has engaged in any of the behaviors prohibited concerning the use of alcohol and/or drugs. “Special needs” arise in the case of accidents or the violation of safety rules and generally exist when needs for a warrantless search exist beyond normal needs and render the warrant and probable cause requirements impracticable such as the need to ensure safety. Consultation with the Town Attorney and Supervisor is strongly recommended before such a test is ordered. PLEASE NOTE THAT AN EMPLOYEE OR PROSPECTIVE EMPLOYEE MAY SEEK TO CHALLENGE WHETHER OR NOT THEIR POSITION CONSTITUTES A SPECIAL NEED FOR TESTING OR THAT THEY ARE IN A SAFETY SENSITIVE OR SECURITY SENSITIVE JOB.

Before returning to duty after a positive test result for any reason.

As part of a follow-up program to treatment for substance abuse.

When the employee drives a commercial vehicle he or she must be tested in accordance with US Department of Transportation regulations.

V. TESTING PROCEDURES

Minimum standards are established for specimen collection, laboratory procedures, and laboratory test cut-off levels for illegal drugs or substances above and for alcohol, and MRO verification of positive tests. Testing procedures shall be as unobtrusive as possible and as set forth in the Federal “Omnibus Transportation Employee Testing Act of 1991”.

TESTING LABORATORIES:

Laboratories used will be certified by the Substance Abuse and Mental Health Services Administration (formerly NIDA). SAMHSA guidelines will be followed for:

- Urine or blood specimen collection
- Specimen Testing
- Medical review of positive tests
- Test Result Reporting

VI. MEDICAL REVIEW OFFICER (MRO)

A physician (M.D. or Doctor of Osteopathy) who is knowledgeable in substance abuse will review all drug test results, to insure test validity.

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The MRO will:

- Receive all positive test results
- Ensure that the chain of custody forms are in order
- Review and interpret each positive result
- Conduct a medical interview with any individual that tested positive, if desired by that individual and shall verify in writing all drug tests as being negative or positive and provide such to the proper town representative.

The MRO will maintain all individual drug test result records in a confidential manner.

VII. SUBSTANCE ABUSE AWARENESS TRAINING/EMPLOYEE ASSISTANCE PROGRAM

The Town of Big Flats will provide an education and training program for all employees, officers and supervisors on the effects and consequences of substance abuse on personal health, safety, and work environment; and manifestation and behavioral causes that may indicate substance abuse. This training will be documented and the attendance at such training shall be verified by all employees, etc..

The Substance Abuse Awareness Training program material will be distributed and/or presented to all covered individuals under separate cover or by video. The Town of Big Flats will display and distribute a community-service Hot-Line phone number if such is available for individual assistance; and will display and distribute this Substance Abuse Policy Statement regarding the use of illicit drugs and alcohol.

Individuals with laboratory confirmed positive test results, as verified by the MRO, will be provided with substance abuse treatment and rehabilitation facility information

Individuals who feel that they may have developed a substance addiction or dependence may voluntarily participate in a substance abuse treatment and rehabilitation program.

Employees found to be using illegal drugs may, at the discretion of the Town Supervisor be offered a leave of absence conditioned upon their attending a rehabilitation program (verification of attendance on a daily basis is required and at the end of the program a letter from the program indicating that he/she has successfully completed the program is required) and upon the completion of the program the Town and the employee shall sign an agreement giving the employee one last chance of employment with the Town conditioned on being illegal drug use free and shall submit to a drug test upon return to work. If the employee refuses to participate in the program or sign the agreement disciplinary action can be taken and immediate termination of employment may occur.

All referrals for rehabilitation treatment will be kept confidential. Participation in a rehabilitation treatment program not covered by Town insurance programs is at an individual's own expense.

VIII. SUBSTANCE ABUSE TESTING

The Town of Big Flats Substance Abuse Policy Statement contains the following testing requirements:

Pre-employment Testing: As set forth above

Applicants whose test results are negative will have successfully completed the test and are eligible for hire. Applicants whose tests are confirmed as positive by the laboratory and are verified as positive by the Medical Review Officer (MRO) may not be eligible for employment with the Town of Big Flats.

Random Testing: As set forth above.

Covered individuals and any employees or town officers who refuse to take a lawfully requested test or who test positive and are verified as positive by the MEDICAL REVIEW OFFICER (MRO) will be subject to the Town of Big Flats action up to and including termination of employment.

Probable Cause and Reasonable Suspicion:

When a covered individual's behavior indicates, in the opinion of the immediate supervisor and one other management person, that there is reasonable cause to believe that the individual may be under the influence of prohibited drugs or alcohol, a drug test may be conducted immediately at the Town's expense.

Such individuals whose test results are negative will have successfully completed the test. If the test result is positive or the individual refuses to take the test, the individual may be subject to immediate suspension from employment and thereafter any reasonable disciplinary action up to termination of employment.

Post-Accident Testing:

Post-accident testing for covered individuals will be conducted as set forth above.

Return to Duty:

A person who is permitted by the Town to return to duty after rehabilitation must take and pass the Town of Big Flats, drug and Alcohol tests before returning to duty. This test will be at the employee's expense. Before an employee may return to duty, they must be evaluated by a Substance Professional ("SAP"), have complied with the SAP's recommendation and have received a return to duty approval from the SAP. (See item XI)

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Follow up Testing:

After returning to duty, that employee will be subject to as many follow up tests as the Town of Big Flats requires, with a minimum of six (6) follow up tests in the first twelve (12) months following the return to duty. These tests will be at the employee's expense. If the employee is selected at any time for a random test, that random test will not count as a follow up test.

Individuals who refuse to submit to testing, or who fail an after rehabilitation drug test will be immediately terminated.

Split Sample Tests:

Individuals who test positive and are verified by the MRO as positive may request a one-time only reanalysis of the original specimen by the original NIDA certified laboratory, providing the individual makes a written request within 72 hours of receipt of the first test result from the MRO.

If the Split Sample tests negative, the MRO will cancel the test, and the cost of the test will be refunded to the individual. If the retest result is still positive, the individual will be subject to the Town of Big Flats action up to and including termination of employment. If the split tests positive, the employee will reimburse the Town of Big Flats for the cost of the Split Sample Test.

Adulteration of Tests:

All specimens will be tested for adulteration. Any Specimen found to be adulterated will be considered as a positive result with the same penalties as a positive test result. Any specimen with Specific Gravity, Creatinine or pH levels outside of the normal range will require the employee to submit to a second test at an unannounced time selected by the Town of Big Flats.

IX. CONFIDENTIALITY

All actions taken under the Town of Big Flats Drug Abuse Policy will maintain the confidentiality of the individuals involved. Information related to investigations, possible violations, medical tests, or test results will be communicated on a strict "need to know" basis. Discussions with individuals tested under this program will be conducted as privately as circumstances permit.

X. TOWN SUBSTANCE ABUSE POLICY COMPLIANCE

The Town of Big Flats and all employees share a mutual vested interest in the success of this policy.

While it is not our intent to intrude in the personal lives of individuals subject to substance abuse testing, we do expect compliance with this Program.

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Accordingly, failure to strictly comply with this program will result in the following Town action:

New job applicants who test positive and are verified as positive by the Medical Review Officer will not be eligible for hire.

The Town of Big Flats personnel subject to testing under this Program who refuse to submit to a drug test or who test positive and are verified as positive by the Medical Review Officer will be subject to Town action up to and including termination of employment.

The Town of Big Flats personnel participating in any of the prohibited activities specified in Section III of this Town of Big Flats Policy Statement, or who otherwise fail to strictly comply with its provisions, are subject to Town of Big Flats action up to and including termination of employment.

Any employee of the Town who is convicted of any criminal drug crime or violation occurring in the workplace must notify their immediate supervisor and the Town Supervisor no later than 5 days after such conviction.

Please note that individuals who currently use drugs illegally are not individuals with disabilities protected under the Americans with Disabilities Act (ADA) when an employer takes action because of their continued use of drugs. This includes people who use prescription drugs illegally as well as those who use illegal drugs. However, people who have been rehabilitated and do not currently use drugs illegally, or who are in the process of completing a rehabilitation program, may be protected by the ADA.

XI. SUBSTANCE ABUSE PROFESSIONALS

Any employee who has a verified positive test result for drugs or alcohol must be evaluated by a Substance Abuse Professional (“SAP”) as defined by 49 CFR Part 40. The Fees for any SAP services will be the employee’s own expense.

XII. CONSEQUENCES FOR VIOLATIONS REGARDING THE PRESENCE OF ALCOHOL AND A POSITIVE DRUG TEST

The following penalties are set as consequences for testing positive:
If an employee has an alcohol concentration between 0.02% and 0.039%:

1st Violation Employee must be removed from safety-sensitive functions until the next day’s duty. Employee may be sent home and may use accumulated leave for the time off.

2nd Violation Employee will be suspended for 24 consecutive hours with the loss of one day’s pay. Employee may be referred to a Substance Abuse Professional for assessment and consultation.

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3rd Violation Employee will be dismissed if there are three (3) violations in a three (3) year period.

If an employee has an alcohol concentration of 0.04% or greater, or a positive drug test:

1st Violation Employee will be suspended without pay for forty-eight (48) hours. Employee will be referred to a Substance Abuse Professional for assessment and recommended rehabilitation. Reinstatement to the employee's position and return to full duties shall be determined by the Substance Abuse Professional (who shall provide a written report to the town) and the town supervisor.

2nd Violation Employee will be dismissed if there are two (2) violations in a three (3) year period.

Refusal by an employee to submit to alcohol or drug testing will be equivalent to a positive test result.

For all union members, the nature of discipline shall be governed by the union's contract with the town.

XIV. ATTACHMENTS

Exhibit A - Acknowledgment of receipt and understanding of the Town of Big Flats Anti-Drug Program.

EXHIBIT A

ACKNOWLEDGEMENT OF RECEIPT AND UNDERSTANDING OF SUBSTANCE ABUSE POLICY

The Town of Big Flats is vitally concerned with those situations where the use of illegal drugs or alcohol, or the illegal use of legal drugs seriously interferes with any person's health and job performance and The Town of Big Flats business operations, and is a hazard to the safety and welfare of other employees or the public at large.

The Town of Big Flats has established a Substance Abuse Policy for the purpose of maintaining a drug free workplace.

I understand that all covered Town of Big Flats employees and new applicants for the Town of Big Flats employment must be drug free in accordance with the Town of Big Flats Substance Abuse Policy.

I hereby certify that I have received a copy of The Town of Big Flats Substance Abuse Policy Statement; that I have read and understand its contents; and understand that I must be drug free as a condition of employment.

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Name (Please Print):

Social Security #:

Signature:

Signature Date:

EXHIBIT B

SUBSTANCE ABUSE TESTING PANEL

1. The following are some of the most common drugs which shall be tested for at the following cut off levels:

Level	Screen Detection Level	GC/MS Confidence
Drug Group	NG/ML	NG/ML
Amphetamines	1000	500
Cocaine Metabolites	300	150
Marijuana Metabolites	50	15
Opiate Metabolites	2000	2000
Phencyclidine	25	25
Alcohol	> .02 BrAC	Actual BrAC

NG/ML is nanogram per milliliter.

The above list is not all-inclusive and does not exempt any drugs that are or may in the future become illegal.

CARRIED: AYES: Giammichele, Adams, Saglibene, Fairbrother

NAYS: None

ABSENT: Gillette

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RESOLUTION NO. 246-15
BIG FLATS TOWN COURT TO HIRE LAURIE MORRISON AS PART-TIME
DEPUTY COURT CLERK APPROVED

Resolution by: Saglibene
Seconded by: Giammichele

WHEREAS the position of part-time deputy court clerk is vacant, and

WHEREAS the Town of Big Flats Town's Justices have interviewed candidates for the position of part-time deputy court clerk, and

WHEREAS Laurie Morrison has been selected as the justices choice at a salary of \$12.00 per hour not to exceed 20 hours per work week, and

WHEREAS this is a provisional appointment pending the background check plus a probation period of 6 months, and

WHEREAS this appointment will begin December 14, 2015 pending the background check by Charles Wood, and

WHEREAS for environmental review purposes, interpreting an existing code, and adoption of regulations, policies, or procedures and local legislative decisions are Type II action in accordance with SEQRA 6 NYCRR, Part 617.5 (c) (20) and as such no further action is necessary regarding the same, now

THEREFORE BE IT RESOLVED the Town Board authorizes the Town of Big Flats Justices to hire Laurie Morrison as a provisional part-time deputy court clerk, not to exceed 20 hours per week, at a rate of \$12 per hour with a probation period of 6 months, pending the background check.

CARRIED: AYES: Giammichele, Adams, Saglibene, Fairbrother
NAYS: None ABSENT: Gillette

RESOLUTION NO. 247-15
LITIGATION REGARDING, TAX ASSESSMENT BOUGHT BY L ENTERPRISES,
LLC APPROVED

Resolution by: Giammichele
Seconded by: Adams

WHEREAS, the Town of Big Flats, and L Enterprises, LLC are presently engaged in litigation pursuant to Article 7 of the Real Property Tax Law of the State of New York seeking a reduction of the assessment made regarding it and its property (known also as Chase Pitkin and more specifically identified as Tax Parcel No. 58.01-1-63.2) by the Town Assessor, and

MINUTES OF THE TOWN BOARD MEETING OF DECEMBER 9, 2015

RESOLUTION NO. 247-15, LITIGATION REGARDING, TAX ASSESSMENT
BOUGHT BY L ENTERPRISES, LLC APPROVED continued

WHEREAS, an offer of settlement has been made to correct the tax roll for this property prepared by the Town of Big Flats, etc. in 2015 reducing the original total taxable assessment of \$4,081,000.00 to a total taxable assessment of \$3,300,000.00; and further that the statutory provisions of RPTL Section 727, including, without limitation, the statutory three year prohibition, shall not apply to this settlement, and

WHEREAS, the attorney for L Enterprises, LLC has also advised us that as part of this settlement the owner of the two other motels has agreed to discontinue their assessment proceedings regarding the Hilton located at 35 Arnot Road, Index Number 2015-1952, and the Hampton Inn, Index Number 2015-1953, and those discontinuances are found in two of the papers referred to below and are titled Stipulation of Discontinuance, and

WHEREAS, it is in the best interest of the Town of Big Flats to accept said settlement and terminate that litigation as well as the proceedings presently pending regarding the other two motels, and

WHEREAS, the Town Board, upon the recommendation of the Assessor and the Town Supervisor, and by John Ryan who represented the Town in the above proceedings, and concurred to by the Town Attorney, finds the proposed settlement appropriate and in the best interest of the Town of Big Flats, now

THEREFORE BE IT IS RESOLVED, that settlement of the proceedings, on the terms set forth herein, is hereby accepted and approved, subject to the approval of the Supreme Court, Chemung County, wherein such proceedings are pending, and

FURTHER RESOLVED, that the Town of Big Flats approves and accepts the stipulation of settlement as presented (consisting of a Stipulation settling the assessment proceeding signed by the respective attorneys, and an Order to be signed by the Honorable Judith F. O'Shea, Supreme Court Justice, and Stipulations of Discontinuance with Harold's Dist. of Elmira Corp. and LCL II Associates, LLC, as petitioners in proceedings under Index No. 2015-1953 and Index No. 2015-1952, respectively, copies of which are attached to this resolution); and, it is therefore

RESOLVED FURTHER, that the Superintendent of the Town of Big Flats is authorized to execute and deliver all documents and undertake such acts as are necessary to comply with the terms of settlement.

CARRIED: AYES: Giammichele, Adams, Saglibene, Fairbrother
NAYS: None ABSENT: Gillette

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RESOLUTION NO. 248-15

A RESOLUTION TO APPROVE THE COMMUNICATION LOG DECEMBER 9, 2015

Resolution by: Adams

Seconded by: Saglibene

BE IT RESOLVED that the following communications were received, accepted and filed by the Town Clerk of the Town of Big Flats and referred to the appropriate Department Head for information and/or action:

November 18, 2015

Time Warner Cable - RE: November 18, 2015 Programming Notices Changes

Referred to: Town Board, and filed with Town Clerk.

November 19, 2015

Davenport Forest Oakfield Neighborhood Association – RE: Thank you for your time, and providing great information. *Referred to: Town Board, and filed with Town Clerk.*

December 2, 2015

Time Warner Cable - RE: December 2, 2015 Programming Notices Changes *Referred to: Town Board, and filed with Town Clerk.*

December 2, 2015

Big Flats Business Association - RE: Meeting Minutes *Referred to: Town Board, and filed with Town Clerk.*

CARRIED: AYES: Giammichele, Adams, Saglibene, Fairbrother

NAYS: None ABSENT: Gillette

Supervisor Fairbrother reports on General Items:

- Minier's/Sen. Smith Boat Launch in Big Flats – a new concrete boat ramp and access road. Congratulate the Big Flats Department of Public Works, and Mark Watts from Soil and water, along with Four Students from BOCES. Great job
- Christmas Concert on December 4th had a great turnout of 169 people, and had a lot of great reviews. Supervisor mentioned we are looking at having 4 concerts next year, 1 in the spring, 2 in the summer, and 1 in the fall.
- IDA /STEG - Supervisor Fairbrother asked the Town Board if they would be interested in attending STEG's next meeting with him on Tuesday, December 15th, mentioned he was asked to be part of the STEG Executive Committee. I-86 will be starting up in January, Susan Payne, Jack Benjamin, and Ed Fairbrother trying to bring everyone
- Assessing update
- Next meeting will be December 28th at 4:30PM
- Organizational meeting will be set for Tuesday, January 5th at 4:30PM

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- Water metering update – 20 meter left to be installed in the Town of Big Flats.
- Looking at Fees for the different departments.
- New HVAC in town hall -
- Hammond Street, list with Reality USA David Moses for \$19,900 at 6% fee done
- Attended the OSC Training today – Director said we will have training here.
- IT with the County update – We will be totally wireless by the 1st of the year.
- New World program – Will be postponed until after the 1st quarter, for payroll and accounting.
- Putting a committee together to cover the items in the town complex for updates.
- Pesh Compliance, did a surprise audit last Thursday in the Highway and Water Departments – only a few minor thing needed fixing, but was very pleased.
- Youth NYC trip Supervisor canceled, regarding the High Alert.

Supervisor Fairbrother made a motion, seconded by Councilmen Saglibene to enter into an executive session for legal advice on two separate personnel issues. All in favor except Councilperson Gillette was absent. 5:07 pm

Supervisor Fairbrother reconvened the Town Board Meeting at 5:27pm

Councilperson Giammichele made a motion, seconded by Councilperson Saglibene to adjourn the Town Board meeting at 5:28 p.m. All in favor, motion carried.

Date approved: _____ Linda Cross
Town Clerk