

MINUTES OF THE TOWN BOARD MEETING OF JULY 11, 2012

PRESENT:	Supervisor	Teresa Dean
	Council	Edward Fairbrother Mike Smith Andy Gillette Mike Saglibene
	Attorney	Fredrick Ahrens
	Town Clerk	Linda Cross

Supervisor Dean called the Town Board Meeting to order at 4:30 p.m. and requested those present to participate in the Pledge of Allegiance.

PUBLIC HEARING 4:30 P.M. Local Law Tentatively No. 2 for the Year 2012, proposed amendments to the Zoning Law

Supervisor Dean called the public hearing to order at 4:33 p.m. and read the legal notice duly advertised in the Elmira Star Gazette on July 5, 2012, which allowed and considered public comments from any interested parties herein, regarding a Local Law Tentatively No. 2 for the Year 2012, proposing a series of amendments to the Zoning Law.

IN FAVOR: Tom Gorman, 2445 State Route 352, spoke on behalf of the Big Flats Business Association on vehicle sales and repairs for heavy equipment is a good fit. He opposed removal of the bakery and convenient marts from business neighborhood district 2.

Carolyn Welliver, 107 Lyons Drive, supports the first three, but opposed the removal of the bakery and convenient marts stores.

Carl Pesesky, 17 Cayuga Drive, spoke in favor of the proposed amendments.

Bill Stewart, 414 Lloyd Drive, stated he is in favor of all except the 4th item.

Al Redner, 36 Olcott Rd. N, stated he has no objections as long as they meet all State Federal, County and Town of Big Flats environmental concerns.

Russ Minier, stated he is in favor and asked the Board to keep an open mind.

Dean Wenzel, 2307 State Route 352, stated he is 110% in favor of the amendment.

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Jeff O'Donnell, 88 Belaire Drive, stated he is in favor, and as far as possible road damage from heavy vehicles he does not have a concern with big trucks traveling on Daniel Zenker Rd., He also stated restaurants should not be excluded and anything good economically should be considered.

George Buck, 88 Farr Lane, stated he is in favor of this project. He asked the board to reconsider the changes of the restaurants and convenient stores.

Jim Appier, 87 Hillview Drive, stated he was in favor as it brings growth to the area. He also stated the board should reconsider the restaurants and convenient stores.

OPPOSITION: Chris Thorborg, 135 Hillview Drive, was opposed and stated she sees an impact on the wildlife.

Mary Ann Balland, 24 Cayuga Drive, stated concerns with the residential areas that border Daniel Zenker Drive and what consideration will be given to these people to mitigate the truck traffic and noise. Also, concerns with the repair of diesel on site being in close proximity to the daycare center.

Susan Moulter, 3005 Watkins Road, concerned with truck traffic and noise in the night.

Judy Zimmerman, 29 Churchill Place, questioned Councilperson Fairbrother if there is no application why is consideration being given to this.

Jane King, 15 Kelly Drive, stated her concern with the impact of additional traffic at exit 49, along with the noise.

COMMENTS: None

Supervisor Dean closed the Public Hearing at 4:48 p.m.

Supervisor Dean mentioned that no action would be taking on the proposed Local Law today; it will be on the agenda for our next meeting. This will give us time to do research and look at these comments.

CONCERNS OF THE PEOPLE Margie Flynn, 106 Hillview Drive, stated negative comments regarding the youth/senior community center misunderstanding were deplorable and employees should be mandated to follow instructions of their employers. Concerned with the lack of role models for children and the liabilities with no park activity or staff. She encourages parents to attend meetings and take a directory of board members and call them at home with concerns.

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Laura Pierce, 2307 State Route 352, asked Supervisor Dean for a list of achievements of the Commissioner of Public Works.

Nancy Swartz, Big Flats resident, expressed her concerns regarding the attack on the Youth Department, and stated how she found answers to all of her own previous questions.

REPORTS

Supervisor Dean stated the following reports for June 2012 have been received and are on file in the office of the Town Clerk:

Town Clerk's Monthly Report, Supervisor's Fund Balance Report, SPCA Monthly Report, Justice Court Monthly Report, Youth Department Monthly Report, Assessor's Annual Report, Assessor's Monthly Report, Department of Public Works Monthly Report, Code and Planning Department Monthly Report.

NEW BUSINESS

RESOLUTION NO. 157-12

SHARED SERVICES OF CODE ENFORCEMENT OFFICERS APPROVED

Resolution by: Fairbrother

Seconded by: Smith

WHEREAS the Rural Association of Mayors and Supervisors has determined the necessity to provide an Intermunicipal Agreement for the purpose of shared services of Code Enforcement Officers, and

WHEREAS the intent of the agreement is to make code enforcement equipment, personnel and other resources available to neighboring governmental jurisdiction for the benefit of the residents of those municipalities, and

WHEREAS it is hereby determined that the Town of Big Flats and other municipalities have situations in which assistance is needed from other municipalities, in emergency and non-emergency operation, code enforcement and building inspections functions, and

WHEREAS a standard agreement has been prepared which is expected to be adopted and placed into effect in other municipalities which agreement will grant the person holding the position of code enforcement officer to make similar agreements, and

WHEREAS it is hereby determined that it will be in the best interests of the Town of Big Flats to be a party to such an agreement, now

BE IT THEREFORE RESOLVED, that the chief executive officer of Town of Big Flats is hereby authorized to sign on behalf of the Town, the following agreement:

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RESOLUTION NO. 157-12, SHARED SERVICES OF CODE ENFORCEMENT OFFICERS
APPROVED continued

CODE ENFORCEMENT MUTUAL AID AGREEMENT

§1. GENERAL PURPOSE

The intent of this agreement is to make code enforcement equipment, personnel and other resources available to neighboring governmental jurisdictions for the benefit of the residents of those municipalities. This agreement will authorize and provide assistance in emergency and non-emergency operation of code enforcement and building inspection functions.

§2. DEFINITIONS

For the purposes of this agreement, the following terms shall be defined as follows:

“*Assistance*” means providing code enforcement personnel and equipment to a Requesting Party.

“*Party*” shall mean a governmental subdivision.

“*Requesting Official*” means the person designated by a Party who is responsible for requesting Assistance from other Parties.

“*Requesting Party*” means a party that requests assistance from other parties.

“*Responding Official*” means the person designated by a Party who is responsible to determine whether and to what extent that Party should provide assistance to a Requesting Party.

“*Responding Party*” means a Party that provides assistance to a Requesting Party.

“*Incident Commander*” means the individual from the Requesting Party who is designated as being in command of the mutual aid scene.

"Municipality" shall mean any city, county, town or village which has agreed to be bound by a contract of shared services identical in terms and effect with this contract and has filed a certified copy of a resolution to that effect with the designated filing agent as defined herein.

"Contract" shall mean the text of this agreement which is identical in terms and effect with similar agreements, notwithstanding that each such contract is signed only by the Chief executive officer of each participating municipality filing the same, and upon such filing each filing municipality accepts the terms of the contract to the same degree and effect if each chief executive officer had signed each individual contract.

§ 3. PROCEDURE AND GENERAL PROVIISIONS

Procedure:

Request for assistance. Whenever, in the opinion of the Requesting Official, there is a need for assistance from other parties, the Requesting Official may call upon the Responding Official of any other party to furnish assistance within the terms of this Agreement.

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RESOLUTION NO. 157-12, SHARED SERVICES OF CODE ENFORCEMENT OFFICERS APPROVED continued

Response to request. Upon the request for assistance from a Requesting Party, the Responding Official may authorize and direct his/her party's personnel to provide assistance to the Requesting Party. This decision will be made after considering the needs of the Responding Party and the availability of resources.

Recall of Assistance. The Responding Official may at any time recall such assistance when in his or her best judgment, or by an order from the governing body of the Responding Party, it is considered to be in the best interests of the Responding Party to do so.

Command of Scene. The Requesting Party shall be in command of the mutual aid scene. The personnel and equipment of the Responding Party shall be under the direction and control of the Requesting Party until the Responding Official withdraws assistance.

General Provisions:

The decision to request assistance, along with the procedure for making such requests, and the decision to respond or not to respond, shall be made in accordance with the internal rules and procedures of the individual parties. Failure to provide assistance shall not result in any liability to any party.

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No charges will be levied by a Responding Party to this agreement for assistance rendered to a Requesting Party under the terms of this agreement unless that assistance continues for a period of more than 48 hours. If assistance provided under this agreement continues for more than 48 hours, the Responding Party will submit to the Requesting Party an itemized bill for the actual cost of any assistance provided after the initial 48 hour period, including salaries, overtime, materials and supplies and other necessary expenses; and payment shall be remitted to the Responding Party within 30 days of submittal of costs. Such charges are not contingent upon the availability of federal and state government funds. However, if these funds become available, the parties may discuss reimbursement of all costs associated with the initial 48 hours.

The Requesting Party may, at any time, terminate the request for assistance by orally indicating such to the Responding Party and the rights and responsibilities of the Responding Party shall immediately cease.

It shall be the responsibility of the Incident Commander to fully apprise the participating personnel of the procedures, conditions, and limitations under this Agreement, as well as any amendments hereto.

§ 4. INSURANCE:

Each party shall maintain public liability coverage protecting itself, its officers, agents, employees and duly authorized volunteers against any unusual and customary public

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RESOLUTION NO. 157-12, SHARED SERVICES OF CODE ENFORCEMENT OFFICERS
APPROVED continued

liability claims in amounts which shall, at a minimum, comply with New York State Law. Said policies shall be kept in effect during the entire term of this Agreement.

§ 5. LIABILITY

For the purposes of tort liability, the employees and officers of the Responding Party are deemed to be employees of the Requesting Party.

The Requesting Party agrees to defend and indemnify the Responding Party against any claims brought or actions filed against the Responding Party or any officer, employee, or volunteer of the Responding Party for injury to, death of, or damage to the property of any third person or persons, arising from the performance and provision of assistance in responding to a request for assistance by the Requesting Party pursuant to this Agreement.

The intent of this subdivision is to impose on each Requesting Party a limited duty to defend and indemnify a Responding Party for claims arising within the Requesting Party's jurisdiction, subject to any limits of liability under New York State Law. The purpose of creating this duty to defend and indemnify is to simplify the defense of claims by eliminating conflicts among defendants, and to permit liability claims against multiple defendants from a single occurrence to be defended by a single attorney.

No party to this Agreement nor any officer of any Party shall be liable to any other Party or to any other person for failure of any party to furnish assistance to any other party, or for recalling assistance, both as described in this Agreement.

§6. WORKERS' COMPENSATION

Each party shall be responsible for injuries or death of its own personnel. Each party will maintain workers' compensation insurance or self-insurance coverage, covering its own personnel while they are providing assistance pursuant to this Agreement. Each party waives the right to sue any other party for any workers' compensation benefits paid to its own employee or volunteer or their dependants, even if the injuries were caused wholly or partially by the negligence of any other party or its officers, employees, or volunteers.

§7. DAMAGE TO EQUIPMENT

Each party shall be responsible for damage to or loss of its own equipment. Each party waives the right to sue any other party for any damages to or loss of its equipment, even if the damages or losses were caused wholly or partially by the negligence of any other party or its officers, employees, or volunteers.

§8. NOTICE

Notices to be given under this Agreement shall be given by enclosing the same in a sealed envelop, postage prepaid, and depositing the same in the United States Postal Service, addressed to the attention of duly elected or appointed Supervisor or Mayor at the address of record.

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RESOLUTION NO. 157-12, SHARED SERVICES OF CODE ENFORCEMENT OFFICERS APPROVED continued

§9. AMENDMENT OR CHANGES

The parties agree that no change, amendment, or modification to this Agreement, or any attachments hereto, shall have any force or effect unless the change is reduced to writing, dated, and made part of this Agreement. The execution of the change shall be authorized and signed in the same manner as this Agreement.

§10. ENTIRE AGREEMENT

It is understood and agreed that the entire agreement of the parties is contained in this Code Enforcement Mutual Aid Agreement and that it supersedes all oral agreements and negotiations between the parties relating to mutual aid, as well as any previous agreements presently in effect between the parties relating to mutual aid.

§11. DURATION

Any party may withdraw from this Agreement upon thirty (30) days written notice of the other party or parties to the Agreement.

CARRIED: AYES: Smith, Fairbrother, Gillette, Saglibene, Dean
NAYS: None

RESOLUTION NO. 158-12
ZUMBA INSTRUCTOR APPROVED

Resolution by: Smith
Seconded by: Gillette

WHEREAS the Community Center Director has determined and recommended that a Zumba Instructor is needed to provide general recreational activities as part of the Big Flats Community Center services and programs, and

WHEREAS for environmental purposes the contracting of such services is a Type II administration action in accordance with SEQRA 6NYCRR, Part 617.5(c) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board hereby authorizes the Town Supervisor to execute a service contract with Vicki Rossettie for the purpose of teaching Zumba classes at the rate of 80% of the fees collected in accordance with the terms and conditions of the agreement.

CARRIED: AYES: Smith, Fairbrother, Gillette, Saglibene, Dean
NAYS: None

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RESOLUTION NO. 159-12
TAI CHI INSTRUCTOR APPROVED

Resolution by: Gillette
Seconded by: Saglibene

WHEREAS the Community Center Director has determined and recommended that a Tai Chi Instructor is needed to provide general recreational activities as part of the Big Flats Community Center services and programs, and

WHEREAS for environmental purposes the contracting of such services is a Type II administration action in accordance with SEQRA 6NYCRR, Part 617.5(c) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board hereby authorizes the Town Supervisor to execute a service contract with Master Guohua Chen for the purpose of teaching Tai Chi classes at the cost of 80% of the fee collected in accordance with the terms and conditions of the agreement.

CARRIED: AYES: Smith, Fairbrother, Gillette, Saglibene, Dean
NAYS: None

RESOLUTION NO. 160-12
COOKING CLASSES APPROVED

Resolution by: Saglibene
Seconded by: Fairbrother

WHEREAS the Big Flats Community Center offers cooking classes from time to time, which classes have had cost concerns, and

WHEREAS to avoid cost overruns in the future a fee must be substantial enough to cover compensation of the instructor and ingredients, and

WHEREAS it has been recommended by the Director of Recreation for the Community Center that a fee of \$15.00 per participant should pay more than ample, and

WHEREAS for environmental purposes the contracting of such services is a Type II administration action in accordance with SEQRA 6NYCRR, Part 617.5(c) (20) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED that the fee of \$15.00 per participant be established for cooking classes, and

FURTHER RESOLVED all sums collected shall be first applied to the cost of the ingredients and the balance split 60-40% between the instructor and the Town of Big Flats.

CARRIED: AYES: Smith, Fairbrother, Gillette, Saglibene, Dean
NAYS: None

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RESOLUTION NO. 161-12
YOUNGS EXPLOSIVE CORPORATION FIREWORKS DISPLAY APPROVED

Resolution by: Fairbrother
Seconded by: Smith

WHEREAS Monitag Inc. has contracted with Young Explosives Corporation to conduct a fireworks display at 2679 State Route 352, Big Flats, NY on July 20, 2012 at 10:15 P.M. with no rain date, and

WHEREAS for environmental review purposes, administration is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5(c) (20) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board authorizes the Fireworks Commissioner to sign the Fireworks Permit, contingent upon the review and approval by the Attorney for the Town, permitting the fireworks display sponsored by Young Explosive Corporation at 2679 State Route 352, Big Flats, NY to be held on July 20, 2012 at 10:15 P.M. with no rain date.

CARRIED: AYES: Smith, Fairbrother, Gillette, Saglibene, Dean
NAYS: None

RESOLUTION NO. 162-12
JULY 11, 2012 COMMUNICATIONS LOG APPROVED

Resolution by: Smith
Seconded by: Gillette

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:

June 27, 2012

Micro Solutions – RE: Server Maintenance Program. *Referred to: filed with the Town Clerk.*

NYSEG – RE: Inspect Wooden Transmission Poles. *Referred to: filed with the Town Clerk.*

CARRIED: AYES: Smith, Fairbrother, Gillette, Saglibene, Dean
NAYS: None

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RESOLUTION NO. 163-12
SPECIAL USE PERMIT REQUEST BY L ENTERPRISES, LLC REFERRAL APPROVED

Resolution by: Gillette
Seconded by: Saglibene

WHEREAS L Enterprises, LLC submitted a letter, dated June 27, 2012, requesting a special permit for the purpose of leasing the former Chase Pitkin facility for a period of two (2) years to Corning Inc. for storage of raw materials currently housed at the Corning Inc. Big Flats facility located along County Route 64, and

WHEREAS the Town Board feels this request should be reviewed and comments provided by the Town Planning Board, now

BE IT THEREFORE RESOLVED the Town Board refers the request from L Enterprises, LLC submitted a letter, dated June 27, 2012, requesting a special permit for the purpose of leasing the former Chase Pitkin facility for a period of two (2) years to Corning Inc. for storage of raw materials currently housed at the Corning Inc. Big Flats facility located along County Route 64 for their review and comments.

CARRIED: AYES: Smith, Fairbrother, Gillette, Saglibene, Dean
NAYS: None

Councilperson Fairbrother made a motion, seconded by Councilperson Smith, to enter into Executive Session to discuss a particular personnel matter at 5:07 p.m. All in favor, motion carried.

Supervisor Dean reconvened the Town Board Meeting at 5:29 p.m.

Councilperson Fairbrother made a motion, seconded by Councilperson Smith to adjourn the Town Board meeting at 5:30 p.m. All in favor, motion carried.

Date approved: _____

Linda J. Cross
Town Clerk