

MINUTES OF THE WATER/TOWN BOARD MEETING OF NOVEMBER 18, 2015

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

Supervisor Fairbrother opened the Special Water Board meeting at 4:30 p.m., and requested those present to participate in the Pledge of Allegiance.

PUBLIC HEARING 4:30 p.m. 2016 Water Rates for Water Districts #4 and #5

Supervisor Fairbrother called the public hearing to order at 4:30 p.m. and read the legal notice duly advertised in the Elmira Star Gazette on November 9, 2015, which allowed and considered public comments on a proposed Town of Big Flats, 2016 Water Rates for Water Districts

IN FAVOR: NONE

OPPOSITION: Ken Larson, Ken's Service Center, 100 Canal Street, states he understands where the water rates need to be. Ken mentions, it's a tall task for a small business Ken respectfully request that the town look at other alternatives, with a phase in that is more reasonable for a business to adjust.

COMMENTS: Chris Dean 25 Main Street, states he is not against the water increase, and understands there is a need for an increase, but would like to point out that it will be a 100% increase and that's a hard pill to swallow, and I will have to pass that cost on to all my tenants. Being one of your larger customers, and a large bill that I have to budget for. I would like to request for a step increase, instead of hitting with a full force, which is just tough.

Jane King, 15 Kelly Drive, we are a minimum residential user, but we've paid low water rates since 1974. So I can certainly appreciate that this needs to take place. Businesses are paying the same what I am paying, so it's time for a change. I don't like what I'm going to have to pay but that's it. You won't get water as low in other places. It is what it is.

Since there were no further comments, Supervisor Fairbrother closed the Public Hearing at 4:37 p.m.

UNFINISHED BUSINESS

RESOLUTION NO. 225-15
NEW WATER RATES FOR 2016, WATER DISTRICTS #4 and #5 APPROVED

Resolution by: Gillette
Seconded by: Giammichele

WHEREAS a Public Hearing was held on Wednesday, November 18, 2015 to hear comments regarding the proposed 2016 Water Rates, Commercial and Residential, for Water District #4 and #5, and

MINUTES OF THE WATER/TOWN BOARD MEETING OF NOVEMBER 18, 2015

RESOLUTION NO. 225-15, NEW WATER RATES FOR 2016, WATER DISTRICTS #4 and #5
APPROVED continued

WHEREAS the Water Department held two informational meetings, one for District #2 Commercial accounts on October 13, 2015 and another for Residential accounts on October 15, 2015 to go over the proposed rates and rationale, and

WHEREAS the Water Board caused due notice of the Public Hearing for Proposed Water Rates and of the time and place wherein the Water Board would meet and hear and consider any objections to said proposed rates, to be duly published according to law, and

WHEREAS the rates were a product of the asset management plan the Water Department completed with Hunt Engineers. The 2016 proposed water rates were presented with effective billing dates for monthly customers set for February 2016 bills and for quarterly customers as April 2016. The 2016 Proposed rates were presented as follows:

Water District 4 (Quarterly billing, Residential)

Minimum Bill \$48.00, includes usage from 0 – 8,000 gallons
Usage over 8,000 gallons billed at \$4.80 per 1,000 gallons

Water District 5 (Quarterly billing, Residential)

Minimum Bill \$39.50, includes from 0-10,000 gallons
Usage over 10,000 Gallons billed at \$2.27 per 1,000 gallons

Water District 5 (Monthly billing, Commercial)

Minimum Bill \$21.60, includes usage form 0-4,000 gallons
Usage over 4,000 gallons billed at \$4.40 per 1,000 gallons

Water District 5 (Quarterly billing, Commercial)

Minimum Bill \$56.00, includes usage from 0-10,000 gallons
Usage over 10,000 gallons billed at \$4.40 per 1,000 gallons

WHEREAS for environmental review purposes, administration is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5(c) (27) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the said rate proposal be and the same is hereby affirmed and adopted as originally proposed and filed in the office of the Town Clerk of the Town of Big Flats.

CARRIED: AYES: Gillette, Giammichele, Adams, Fairbrother
NAYS: Saglibene

RESOLUTION NO. 226-15
TOWN OF BIG FLATS WATER DEPARTMENT MANUAL READ ANALOG METERS,
POLICY AND RATES APPROVED

Resolution by: Giammichele
Seconded by: Adams

WHEREAS The Town of Big Flats Water Department has made Master Meter the standard meter of choice for the department (Res No. 110-15), and

WHEREAS The Water Department has commenced a remetering project in the Town (Res No.

MINUTES OF THE WATER/TOWN BOARD MEETING OF NOVEMBER 18, 2015

RESOLUTION NO. 226-15, TOWN OF BIG FLATS WATER DEPARTMENT MANUAL READ ANALOG METERS, POLICY AND RATES APPROVED continued

144-15) to read our “radio read Master Meters” using the Master Meter Drive-by software (Res. No 165-15), thus saving the water district significant amounts of money, and

WHEREAS while we have largely completed the remetering project and had overwhelming support and cooperation from our water customers, there have been a few reluctant accounts, and

WHEREAS this does not apply to resident’s that have the radio read Master Meters installed as of 11/18/2015, and

THEREFORE after much thought, consideration and research the Water Department will allow water customers to opt out prohibiting the installation of new Master Meter 3G radio read meters at their residences for any reason at all, thus requiring the installation of Master Meter **analog manual read** meters. and

THEREFORE while we understand and appreciate that some persons may hold a different opinion, we have been advised by Master Meter that there exists no credible medical or scientific evidence that RF emissions from their smart meters present any health risks or have the potential to exacerbate any current medical condition, and

WHEREAS any customer that has a Master Meter analog manual read meter installed will be charged a one-time fee of \$113.00, for the cost of the Master Meter analog meter. This is an additional meter that must be purchased as the project and bid proposals only called for 3G Radio read meters, and

WHEREAS for environmental review purposes, administration is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5(c) (22, 27) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED, any customer who decides to opt-out must pay a designated fee of \$50.00 per quarter due to the increased costs associated with monitoring and maintaining the alternative meter along with the customer’s quarterly water bill starting with all readings after December 31, 2015. As noted there will also apply a onetime charge of \$113.00, for the cost of the analog meter, to be billed after installation of the meter. The opt out fee is applied in a non-discriminatory fashion since it is applied to all customers electing an alternative metering strategy regardless of the customer’s reason for their election. Any customer that sells or moves from the residence is required to notify the Water Department immediately so that they can install the new Master Meter 3G radio read meter.

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

Since there was no further business for the Water Board, Supervisor Fairbrother closed the Water Board meeting at 5:32 p.m.

Supervisor Fairbrother opened the Town Board Meeting at 5:33 p.m.

PUBLIC HEARING 4:30 pm Local Law 3 of 2015 Override the Tax Levy Limit

Supervisor Fairbrother called the public hearing to order at 5:33 p.m. and read the legal notice duly advertised in the Elmira Star Gazette on November 9, 2015, which allowed and considered public comments regarding the Local Law override the Tax Levy Limit.

IN FAVOR: None
OPPOSITION: None
COMMENTS: None

Since there were no further comments, Supervisor Fairbrother closed the public hearing at 5:33 p.m.

PUBLIC HEARING 4:30 pm Local Law 4 of 2015 Setting Salaries of Elected Officials

Supervisor Fairbrother called the public hearing to order at 5:34 p.m. and read the legal notice duly advertised in the Elmira Star Gazette on November 9, 2015, which allowed and considered public comments regarding the Local Law Setting Salaries of Elected officials.

IN FAVOR: None
OPPOSITION: None
COMMENTS: None

Since there were no further comments, Supervisor Fairbrother closed the Public Hearing at 5:34 p.m.

PUBLIC HEARING 4:30 pm Sewer District #1 Scale of Charges Bond

Supervisor Fairbrother called the public hearing to order at 5:35 p.m. and read the legal notice duly advertised in the Elmira Star Gazette on November 9, 2015, which allowed and considered public comments regarding the Sewer District #1 Scale of Charges Bond.

IN FAVOR: None
OPPOSITION: None
COMMENTS: None

Since there were no further comments, Supervisor Fairbrother closed the Public Hearing at 5:35 p.m.

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 Monthly Report, Youth Department Monthly Report, Department of Public Works Monthly Report, Assessor's Monthly Report, Code and Planning Department Monthly Report, Community Center Monthly Report, Court's Monthly Report, Dog Control's Monthly Report for September 2015.

UNFINISHED BUSINESS

RESOLUTION NO. 227-15
2016 PRELIMINARY BUDGET ADOPTED

Resolution by: Adams
Seconded by: Saglibene

WHEREAS the Town Supervisor has prepared the 2016 Preliminary Budget, and

WHEREAS a Public Hearing for said Preliminary Budget was duly held on November 12, 2015 at 4:30 p.m., and

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

BE IT THEREFORE RESOLVED that the Town Board adopts the 2016 Budget as submitted on November 18, 2015, titled "Town of Big Flats 2016 Preliminary Budget".

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

RESOLUTION NO. 228-15
LOCAL LAW NO. 3 FOR THE YEAR 2015 TO OVERRIDE THE TAX LEVY LIMIT
APPROVED

Resolution by: Saglibene
Seconded by: Gillette

WHEREAS, there has been duly presented to the members of the Town Board on October 14, 2015, Town of Big Flats Local Law Tentatively No. 3 for the Year 2015, due to the definitive guidelines and rules as to how to calculate the 2% tax limit calculation are not in place and are subject to interpretation and under the above circumstances there could be inadvertent and unintentional non-compliance subjecting the Town to adverse consequences to avoid the aforementioned adverse consequences it is prudent to adopt the within local law, and this Town Board by resolution, preliminarily adopted said Local Law on October 14, 2015, making the final adoption of said Local Law subject to a Public Hearing to be held on November 18, 2015; and

WHEREAS, in accordance with said resolution and Notice of Public Hearing, this Town Board of the Town of Big Flats did conduct a Public Hearing on November 18, 2015 at 4:30 P.M., and all persons appearing were given the opportunity to be heard, and the Clerk of this Town Board having filed proof of the publication and posting of the Notice of Public Hearing; now

THEREFORE, BE IT RESOLVED that Town of Big Flats Local Law Tentatively No. 3 for the Year 2015, as hereinafter set forth be and the same hereby is finally adopted, to wit:

TOWN OF BIG FLATS
Local Law No. 3 for the year 2015
Override the Tax Levy Limit Established in General Municipal Law 3-C

RESOLUTION NO. 228-15, LOCAL LAW NO. 3 FOR THE YEAR 2015 TO OVERRIDE THE TAX LEVY LIMIT APPROVED continued

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 Big Flats, County of Chemung pursuant to General Municipal Law § 3-c, and to allow the Town of Big Flats, County of Chemung to adopt a town budget for (a) town purposes (b) fire protection districts and (c) any other special or improvement district governed by the town board for the fiscal year 2016 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 authorizes the town board to override the tax levy limit 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 Big Flats, County of Chemung is hereby authorized to adopt a budget for the fiscal year 2016 that requires a real property tax levy in excess of the limit specified 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 law shall take effect immediately upon filing with the Secretary of State.

FURTHER RESOLVED the Town Clerk shall cause one certified copy thereof to be filed in the office of the Secretary of State of the State of New York.

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

RESOLUTION NO.229-15
LOCAL LAW TENTATIVELY NO. 4 FOR THE YEAR 2015, ESTABLISHING THE ANNUAL SALARIES OF ELECTED OFFICIALS WHO HAVE A FIXED TERM OF OFFICE FOR THE FISCAL YEAR 2016 APPROVED

Resolution by: Gillette
Seconded by: Giammichele

WHEREAS, there has been duly presented to the members of the Town Board on October 28, 2015, Town of Big Flats Local Law Tentatively No. 4 for the Year 2015, establishing the annual salaries

RESOLUTION NO.229-15, LOCAL LAW TENTATIVELY NO. 4 FOR THE YEAR 2015, ESTABLISHING THE ANNUAL SALARIES OF ELECTED OFFICIALS WHO HAVE A FIXED TERM OF OFFICE FOR THE FISCAL YEAR 2016 APPROVED continued

of elected officials of the Town of Big Flats who have a fixed term of office for the Fiscal Year 2016, and this Town Board by resolution, preliminarily adopted said Local Law on October 28, 2015, making the final adoption of said Local Law subject to a Public Hearing to be held on November 18, 2015, and also subject to a permissive referendum; and

WHEREAS, in accordance with said resolution and Notice of Public Hearing, this Town Board of the Town of Big Flats did conduct a Public Hearing on November 18, 2015 at 4:30 P.M., and all persons appearing were given the opportunity to be heard, and the Clerk of this Town Board having filed proof of the publication and posting of the Notice of Public Hearing and requirement for a permissive referendum, now

THEREFORE, BE IT RESOLVED that Town of Big Flats Local Law Tentatively No. 4 for the Year 2015, as hereinafter set forth be and the same hereby is finally adopted, to wit:

**TOWN OF BIG FLATS
LOCAL LAW TENTATIVELY NO. 4 FOR THE YEAR 2015**

A **LOCAL LAW** establishing the annual salaries of elected officials of the Town of Big Flats who have a fixed term of office for the Fiscal Year 2016.

Be it enacted by the Town Board of the Town of Big Flats as follows:

SECTION 1: Except where inconsistent by operation of law due to prohibitions of increases of compensation during a fixed term of office for Town officers as provided in Municipal Home Rule Law §24 be, and the same hereby is, applicable to officers having a fixed term of office, elected, as are any and all resolutions of the Town of Big Flats Town Board relative to rights and entitlements of Town executive and management personnel.

SECTION 2: Effective with the first town payroll for the Town Fiscal Year 2016 the annual salaries of the elected officials of the Town of Big Flats who have a fixed term of office are hereby established for the Fiscal Year 2016 as follows, to wit:

<u>TITLE</u>	<u>2013 SALARY</u>	<u>2014 SALARY</u>
Town Supervisor	\$32,288	\$33,095
Town Council (4)	\$7,004 each	\$ 7,004 each
Town Justice (2)	\$20,975 each	\$21,499 each
Town Clerk	\$40,788	\$41,808

SECTION 3: Should any of the above positions become vacant and subsequently filled by one other than the present incumbent, the salary shall in that instance be set by the Town Board prior to filling said vacancy.

SECTION 4: This Local Law shall become effective, subject to a permissive referendum, forty-five (45) days after the date of its final adoption and on the date it is duly filed in the Office of the

MINUTES OF THE WATER/TOWN BOARD MEETING OF NOVEMBER 18, 2015

RESOLUTION NO.229-15, LOCAL LAW TENTATIVELY NO. 4 FOR THE YEAR 2015, ESTABLISHING THE ANNUAL SALARIES OF ELECTED OFFICIALS WHO HAVE A FIXED TERM OF OFFICE FOR THE FISCAL YEAR 2016 APPROVED continued

Secretary of State of the State of New York and in accordance with the provisions of the Municipal Home Rule Law of the State of New York.

BE IT FURTHER RESOLVED, within twenty (20) days after such Local Law is adopted the Clerk of this Town Board of the Town of Big Flats shall cause a copy of the Local Law to be published in the official designated newspapers together with notice that said Local Law is subject to a permissive referendum of the qualified electors of Town of Big Flats by the filing of a petition within forty-five (45) days from the date of the final adoption of the Local Law with the Town Clerk demanding such referendum, which petition must be signed by qualified electors of the Town registered to vote therein at the last preceding election, in number equal to at least ten per centum (10%) of the total number cast for Governor at the last gubernatorial election in the Town; and be it further

FURTHER RESOLVED, within five (5) days after the expiration of the time for the filing of petitions for a permissive referendum of said Local Law, the Town Clerk shall cause one certified copy thereof to be filed in the office of the Secretary of State of the State of New York.

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

RESOLUTION NO. 230-15
2016 SEWER DISTRICT NO.1 SPECIAL ASSESSMENT APPROVED

Resolution by: Giammichele
Seconded by: Adams

WHEREAS the Town Board of the Town of Big Flats, Chemung County has completed an assessment schedule in connection with the financing of existing debt service for capital improvements for Sewer District # 1 and filed the same with the Town Clerk of the Town of Big Flats on November 5, 2015, and

WHEREAS the Town Board caused due notice of the completion of said assessment schedule and of the time and place wherein the Town Board would meet and hear and consider any objections to said assessment schedule, to be duly published according to law, and

WHEREAS Sewer District # 1 consists of assessment of all customers of \$42,642,100 with a unit charge for 2016 Sewer District # 1 Special Assessment of \$0.406 per \$1,000 of assess value, and

WHEREAS the Town Board did meet at the Town Hall, 476 Maple Street, Big Flats, New York on November 18, 2015, at 4:30 PM and heard and considered all objections to said assessment schedule, now

BE IT THEREFORE RESOLVED the said assessment schedule be and the same is hereby affirmed and adopted as originally proposed and filed in the office of the Town Clerk of the Town of Big Flats, and

FURTHER RESOLVED the Town Clerk shall annex to said assessment schedule a warrant, which shall be signed by the Supervisor of the Town of Big Flats and shall be billed by the Town of Big

RESOLUTION NO. 230-15, 2016 SEWER DISTRICT NO.1 SPECIAL ASSESSMENT
APPROVED continued

Flats accounting department, on the last week of December 2015, with a due date of January 29, 2016. The Town Supervisor shall hold said funds for the payment of the EFS Bond Sewer Bond in 2016.

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

NEW BUSINESS

RESOLUTION NO.231- 15
BUDGET TRANSFERS, AND A VOID CHECK APPROVED

Resolution by: Adams
Seconded by: Saglibene

WHEREAS a memorandum was received from the Bookkeeper, dated October 9, 2015 requesting authorization budget transfers for the following overspent budgets, 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 further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board authorizes the Bookkeeper to fulfill the following Budget Transfers, and will void the following check, see below.

Budget Transfers-General Fund

Please authorize a budget transfer for the following overspent budgets:

To Central Print & Mail (Newspaper)—CE-A1670.0401	800
Recreation Center-CE-A7140.0400	2,000
Drainage —CE-A.8540.0400	10,000
From Hospital & Medical Ins-A.9060.0800	12,800

Please authorize to void check # 14817 made payable to Southern Tier Network dated 10/30/2015 , amount \$10,048.87 and deleting voucher #4005869. Check was made out to the incorrect vendor, correct vendor should be Southern Tier Central Regional Planning & Development Board.

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

RESOLUTION NO. 232-15
ABSTRACT OF AUDITED VOUCHERS APPROVED

Resolution by: Saglibene
Seconded by: Gillette

MINUTES OF THE WATER/TOWN BOARD MEETING OF NOVEMBER 18, 2015

RESOLUTION NO. 232-15, ABSTRACT OF AUDITED VOUCHERS APPROVED
continued

RESOLVE that the Town of Big Flats approve the Abstract of Audited Vouchers for November 18, 2015, and order the bills paid, when in funds, for the following:

GENERAL FUND	\$ 137,628.08
HIGHWAY FUND	\$ 171,663.49
WD 4 & 5 Capital Project#12	\$ 80,970.68
Parks CAPITAL PROJECT #8	\$ 1,170.00
WATER DISTRICT #4	\$ 638.48
WATER DISTRICT #5	\$ 30,944.50
TRUST & AGENCY	\$ 1,994.85

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

RESOLUTION NO.233-15
SURPLUS DECLARATION APPROVED

Resolution by: Gillette
Seconded by: Giammichele

WHEREAS, it has been determined that the HVAC system servicing Code and Court was not addressing temperature and humidity issues and needed to be replaced, and

WHEREAS the work has been completed by Drake Heating & Air-conditioning, and

WHEREAS the replaced HVAC equipment should be declared as surplus, and

WHEREAS for environmental purposes, the sale of surplus government equipment is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5 (c) (25) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board authorizes the Town Supervisor to surplus the HVAC equipment that was replaced and to sell said HVAC system at a value yet to be determined.

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

RESOLUTION NO. 234-15
GAMES OF CHANCE LICENSE AMENDED

Resolution by: Giammichele
Seconded by: Adams

WHEREAS the Big Flats American Legion submitted a GC-6 application to Amend their "Members in charge of Games", and

WHEREAS the Town Clerk duly submitted the application to the Chemung County Sheriff's Department, Records Division for their investigation of Findings and Determination for Games of Chance License, and

RESOLUTION NO. 234-15, GAMES OF CHANCE LICENSE AMENDED continued

WHEREAS for environmental review, ministerial acts is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5(c) (19) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED if a Findings and Determination for Games of Chance License finds the designated members conducting games of chance are of good moral character, the Town Board approves the Application to Amend their Games of Chance License, from the Big Flats American Legion Post 1612 to perform a games of chance event as outlined in the application.

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

RESOLUTION NO. 235-15
INTERMUNICIPAL AGREEMENT STEUBEN COUNTY/TOWN OF BIG FLATS
USE OF A FULL DEPTH ROAD RECLAIMER APPROVED

Resolution by: Adams
Seconded by: Saglibene

WHEREAS, the following agreement was approved on 6/22/2014

THIS AGREEMENT, made on the 11th day of June, 2014 (the “Effective Date”), by and between the **County of Steuben** (“Steuben”), a municipal corporation organized and existing under and by virtue of the Laws of the State of New York and being one of its political subdivisions, having its principal place of business at 3 E. Pulteney Square, Bath, New York 14810, the **Town of Big Flats** (“Big Flats”), a municipal corporation

MINUTES OF THE WATER AND TOWN BOARD MEETING OF JUNE 11, 2014, organized and existing under and by virtue of the Laws of the State of New York and being one of its political subdivisions, having its principal place of business at 476 Maple Street, Big Flats, NY 14814, being individually referred to as “Party” and collectively referred to as “Parties”.

WHEREAS, The Parties currently own and maintain various public highways, streets, and roadways, and

WHEREAS, from time to time said highways, streets, and roadways, are in need of pavement grinding for purposes of improving the road pavement condition, and

WHEREAS, Steuben County currently possesses the necessary equipment to perform such pavement grinding to its respective highways, streets, and roadways, and

WHEREAS, the Town of Big Flats wishes to enter into an agreement for the use of said equipment, and

WHEREAS, the Parties are desirous of entering into the agreement with each other for the purpose of sharing the use and operation of the pavement grinding equipment, and to participate with each other in the recognition of the attendant savings achieved thereby.

RESOLUTION NO. 235-15, INTERMUNICIPAL AGREEMENT STEUBEN COUNTY/TOWN OF BIG FLATS USE OF A FULL DEPTH ROAD RECLAIMER APPROVED continued

NOW THEREFORE, in consideration of the premises and of the mutual promises and agreements contained herein, and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Scope.** This agreement, between Steuben County and the Town of Big Flats, specifies the conditions of operation and payment for a fully equipped Full Depth Road Reclaimer to be used for the grinding of existing roads in the Town of Big Flats.
2. **Maintenance.** As the Road Reclaimer is owned by Steuben County, maintenance costs will be the responsibility of Steuben Co.
3. **Operational Costs.** Fuel for the equipment while in use in the Town of Big Flats will be supplied by Big Flats while work is being conducted.
4. **Pavement Grinding Operations.**
 - a. Full Depth Reclaimer Crew. Operation of the road reclaimer requires a skilled and trained crew. The crew shall be a dedicated and trained crew supplied by Steuben County DPW. The personnel from Steuben County will consist of the main operator and may include a ground person where applicable. Steuben County will also be supplying any personnel required to do any mechanical work on the road grinder. This crew shall be maintained from year to year as much as possible and crew members shall be replaced when necessary by individuals who will be able to return year to year for operation of the equipment. This crew shall be responsible for the proper and safe operation of the road reclaimer. The Town of Big Flats will provide adequate staff to support the safe operation of the equipment and to ensure the safety of the work site, including but not limited to adequate traffic control, as determined by Steuben County DPW.
 - b. Scheduling of Operations. The participating Municipal DPW's agree to conduct an annual meeting, at a time and place mutually agreeable, to establish the scheduling for the Town of Big Flats. The time frame of grinding operations in the Town of Big Flats will in no way interfere with the ability of Steuben County to complete its' regularly scheduled projects in a timely manner. It shall be Steuben County's responsibility to coordinate changes to the initial schedule as deemed necessary by mitigating circumstances throughout the construction season such as weather, mechanical problems, logistical efficiency matters and so on.
 - c. Pavement grinding personnel shall be supplied by Steuben County when the grinding work is being done. These personnel shall follow the general guidance of the Town of Big Flats designee regarding the needs of their operations to best support the overall grinding effort. Break times and meal times shall be established by the Town of Big Flats designee.
 - d. Pavement Grinding Services Accounting. The Town of Big Flats agrees to pay Steuben County for all labor and equipment cost incurred for the grinding operations in the Town of Big Flats. The Full Depth Road Reclaimer shall be invoiced at a daily rate of \$4,000. An hourly rate of \$500 will be used if weather conditions or mechanical breakdowns will not permit the use of the machine for a full day. **These rates are such that they cover the cost of the equipment and all operating personnel.** Steuben County shall maintain accurate written records for (1) Days and hours that the pavement grinding equipment are used hereunder, (2) The locations where the equipment is used, and (3) Any accidents arising during such operation to the grinding equipment. Steuben County will invoice for these services on a monthly basis. The Town of Big Flats agrees to provide the fuel for the pavement grinder while in use in the Town of Big flats.

RESOLUTION NO. 235-15, INTERMUNICIPAL AGREEMENT STEUBEN COUNTY/TOWN OF BIG FLATS USE OF A FULL DEPTH ROAD RECLAIMER APPROVED continued

5. **Liability for Damage Claims by the Driving Public.** Steuben County shall be held harmless for any and all claims emanating from road users and the general public when working in the Town of Big Flats. All damage claims to the public shall be appropriately handled and reconciled by the Town of Big Flats while the grinding work is being performed.
6. **Term.** The Term of this Agreement shall commence on the Effective Date and shall not expire earlier than December 31, 2016; The Parties may extend this Agreement upon mutual written consent.
7. **Termination/Withdrawal.** The Parties may terminate this Agreement upon mutual consent at any time subject to the fulfillment of all outstanding responsibilities. In addition, any Party may withdraw from this Agreement upon 30 days written notice to the other Parties of its intent to do so. In the event a Party withdraws from this Agreement, such Party shall realize no further benefits from the Agreement and shall have no further responsibilities relative to the sharing of services with the other Party.
8. **Insurance.** In respect of the promises made in this Agreement by each Party to the other Parties, the Parties shall provide and maintain insurance as follows: (a) Steuben shall include the pavement grinding equipment in its insurance program so as to cover Automobile Liability on the pavement grinding equipment i) for all liability arising out of injury to or death of one or more persons, in any one occurrence, ii) for all liability arising out of damage to or destruction of property, including loss of use thereof and downtime, in any one occurrence, and iii) against the loss or theft of or damage to the pavement grinding equipment for the greater of the Stipulated Loss Value (computed as described in the applicable Schedule) or full replacement value thereof; (b) Each Party shall include the Pavement Grinding Operations contemplated by this Agreement in each Party's public liability and third-party property damage insurance program in respect of the employment of the pavement grinding equipment within each Party's jurisdiction; and (c) Each Party shall include the pavement grinding equipment in each Party's casualty insurance program in respect of damage or loss to the pavement grinding equipment while stored or garaged on the premises of a Party. Each Party shall designate the other Parties as additional insureds to the extent of the foregoing insurance responsibilities, and shall deliver certificates of such insurance to the other Parties on request.
9. **Indemnity.** Each Party within whose boundaries pavement grinding operations ("work") are being performed ("Indemnifying Party") shall and hereby does assume liability for, and shall defend, indemnify, protect, save and keep harmless the other Parties ("Indemnified Parties"), and their respective officers, employees, and agents from and against all losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements, including legal expenses of any kind and nature imposed upon, incurred by, or asserted against such Indemnified Parties in any way relating to or arising out of this Agreement or the use of the pavement grinding equipment within the boundaries of the Indemnifying Party.
10. **Liability for damage.** The Town of Big Flats shall be responsible for any damage to the pavement grinding equipment while stored or staged in the Town of Big Flats facilities or grounds, including on private property the use of which is arranged by that Party, or resulting from the negligence of such Party.
11. **Dispute Resolution.** Any dispute which shall arise between the Parties or any of them with respect to this Agreement shall be referred to a council of the Town Administrator/Supervisor from each participating municipality.

MINUTES OF THE WATER/TOWN BOARD MEETING OF NOVEMBER 18, 2015

RESOLUTION NO. 235-15, INTERMUNICIPAL AGREEMENT STEUBEN COUNTY/TOWN OF BIG FLATS USE OF A FULL DEPTH ROAD RECLAIMER APPROVED continued

PROHIBITION AGAINST ASSIGNMENT. IN ACCORDANCE WITH THE PROVISIONS OF SECTION 109 OF THE GENERAL MUNICIPAL LAW, EACH PARTY IS HEREBY PROHIBITED FROM ASSIGNING, TRANSFERRING, CONVEYING, SUBLETTING OR OTHERWISE DISPOSING OF THIS AGREEMENT, and

WHEREAS Steuben County and The Town of Big Flats would like to continue the above agreement, and

WHEREAS The Deputy Commissioner of Public Works recommends that the agreement continue until parties agree to cancel it, and

WHEREAS for environmental review, repaving of existing highways (4) and continuing agency administration (20) are Type II actions in accordance with SEQRA 6NYCRR, Part 617.5 (c) (4) (20) and as such no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED that the Town Board authorizes the ongoing Intermunicipal agreement between Steuben County and The Town of Big Flats (use of a full depth road reclaimer) until parties decide to cancel the agreement.

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

RESOLUTION NO. 236-15
SPECIAL MEETING SET FOR THE APPROVAL OF THE ABSTRACT OF
AUDITED VOUCHERS APPROVED

Resolution by: Gillette
Seconded by: Giammichele

WHEREAS a Special Town Board Meeting is needed to allow the Abstract of Audited Vouchers to be approved for the Month of November, and

BE IT THEREFORE RESOLVED a Special Town Board Meeting will be held November 30, 2015 at 4:30 pm to allow the Abstract of Audited Vouches to be approved for the Month of November.

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

RESOLUTION NO. 237-15
COMMUNICATION LOG NOVEMBER 18, 2015 SET

Resolution by: Giammichele
Seconded by: Adams

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:

MINUTES OF THE WATER/TOWN BOARD MEETING OF NOVEMBER 18, 2015

RESOLUTION NO. 237-15, COMMUNICATION LOG NOVEMBER 18, 2015 SET continued

October 28, 2015

Pam Farr / Big Flats Historical Society - RE: Thank you to the Town Board *Referred to: Town Board, and filed with Town Clerk.*

November 4, 2015

Time Warner Cable - RE: November 4, 2015 Programming Notices Changes *Referred to: Town Board, and filed with Town Clerk.*

November 5, 2015

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

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

Supervisor Fairbrother also reported on General Items:

- LED construction complete.
- Christmas Concert. Anastazja, Friday, December 4th at 6:00pm.
- Highway Equipment Meeting – Highway Superintendents and Supervisors/ Mayors regarding sharing equipment.
- Senior Housing project IDA and STEG – Looking at a major project, mid to upper income senior housing.
- Assessing, meeting with Horseheads agreement at a fee of \$65,000 with a savings of over \$20,000 a year.
- Water metering- Shawn Crater has done a phenomeial job.
- Fee changes - all departments are looking at where changes are needed.
- Sales tax is down a little, but still on projection, still up 2.65 for the year.
- Meeting with Silicon Carbide Products.
- New HVAC in Code, is working very well.
- Hammond Street, a resolution at the November 30th meeting to list with Reality USA, David Mosses for \$19,900 at 6% fee.
- Chase Pickens – 2014 assessment was contested to have it lowered. Settlement was agreed.
- OSC audit for Tax Cap Friday.
- DEC audit Thursday all departments.
- Flag Flying at the Community Center honoring our military – was donated, Commander. Zimmerman flew this over Afghanistan.

Councilperson Gillette made a motion, seconded by Councilperson Giammichele to adjourn the Town Board meeting at 6:07 p.m. All in favor, motion carried.

Date approved: _____ Linda Cross
Town Clerk