

**Urbana Town Board Meeting
Regular Board Meeting
March 15, 2022**

The Urbana Town Board held its regular meeting on Tuesday, March 15, 2022 at 6:30 p.m. at the Town Hall, 8014 Pleasant Valley Road, Bath, New York.

Present:	Edward P. Stull	Supervisor
	Jim Presley	Deputy Supervisor
	David Luppino	Councilperson
	David Shaw	Councilperson
	Mary Farmer	Councilperson
	Deanna Tompkins	Town Clerk
	Elizabeth Oklevitch	Attorney
	Tammie Nelson	Bookkeeper

Others Present:

Steve Veley, Don Howard, Terry Bretherton, Dave Oliver, Dick Niles, Sandra Niles, John Hoch, Lance Locey

Supervisor Stull opened the meeting at 6:30 p.m.

Pledge of Allegiance

On a motion made by Councilperson Luppino, seconded by Councilperson Farmer and carried, all voting Aye to approve the amended minutes from February 15, 2022.

Abstract # 3 of 2022

On a motion made by Deputy Supervisor Presley, seconded by Councilperson Luppino and carried, all voting Aye to approve Abstract #3 of 2022.

Accept Department Reports

On a motion made Councilperson Farmer, seconded by Councilperson Shaw and carried, all voting Aye to accept the Department Reports.

Public Input on Agenda Items

Steve Veley had questions about why the Town is going is to vote for zoning immunity and not go to the zoning board. He also had a question regarding the approximate cost of remediation at Champlin Beach.

Don Howard voiced his opinion about Immunity from Zoning.

Old Business

Bridge Update

Structural Issues are currently being resolved. The installation of the bridge will continue in a few weeks.

Pier Project Update

A meeting for bonding needs to be set up after the contract is in place.

Grant Update

None

Approve Immunity from Zoning

Supervisor Stull read the 9 factors that are weighed to determine if the Town is exempt from its own zoning regulations with regard to the use of Champlin Beach for the Pier Project.

TOWN BOARD OF THE TOWN OF URBANA

STEUBEN COUNTY, NEW YORK

RESOLUTION

Exempting Certain Town Property for Town Zoning Regulations

At a regular meeting of the Town Board (the “Board”) of the Town of Urbana (“Town”), held at the Urbana Town Hall on March 15, 2022, at 6:30 PM, the following resolution was made by Deputy Supervisor Presley and duly seconded by Councilperson Shaw and the vote was as follows:

<u>Member</u>	<u>Vote</u>
Councilperson Farmer	AYE
Councilperson Shaw	AYE
Councilperson Luppino	AYE
Deputy Supervisor Presley	AYE
Supervisor Stull	AYE

The resolution therefore passed by a vote of ___5_ to ___0___, and was duly adopted:

WHEREAS, the Town has undertaken a project known as Champlain Beach Infrastructure Improvements (the “Project”), and

WHEREAS, the Project is on property zoned by the Town as Residential, and

WHEREAS, in the 1988 case of *Matter of County of Monroe v. City of Rochester*, 72 N.Y.2d 338, 533 N.Y.S.2d 702, the New York Court of Appeals (highest State court) established a method for determining whether the actions of governmental units are exempt from local zoning regulations using a nine-factor balancing of public interests test; and

WHEREAS, no entity has been specifically designated by the Board to make determinations of governmental immunity and such power therefore vests in the Board; and

WHEREAS, a duly noticed public hearing was held before the Board on the matter of governmental immunity on February 15, 2022, prior to the passing of this Resolution;

NOW, THEREFORE:

The Board, having considered the Project, the applicable zoning, all comments received at the public hearing, and these factors set forth in *Matter of County of Monroe v. City of Rochester*, 72 N.Y.2d 338, 533 N.Y.S.2d 702 (N.Y. 1988):

1. The nature and scope of the instrumentality seeking immunity;
2. The encroaching government’s legislative grant of authority;
3. The kind of function or land use involved;
4. The effect local land use regulation would have upon the enterprise concerned;
5. Alternative locations for the facility in less restrictive zoning areas;
6. The impact upon legitimate local interests;
7. Alternative methods of providing the proposed improvement;
8. The extent of the public interest to be served by the improvements; and
9. Intergovernmental participation in the project development process and an opportunity to be heard;

finds and resolves as follows:

- I. It is in the public interest for the Town to be exempt from its own zoning regulations with regard to the use of Champlain Beach for the Project because the proposed use and function remains public recreation and therefore is substantially similar to, though a significant expansion of, the existing use; is on designated park land; has no suitable alternative location or method of improvement; and is not outweighed by other legitimate local interests.

II. The above determination is based on consideration and balancing of the relevant factors as follows:

1. The instrumentality seeking immunity is the Town, for expansion of the public recreational use of the property, and although the proposed expansion includes contemplated benefit to a private entity through a licensing agreement, the primary purpose and benefit is public, as is the oversight of the Project;
2. The Town has made no specific grant of legislative authority, and as no entity has been specifically designated by local law to make determinations of governmental immunity, such power therefore vests in the Board by default;
3. The property is currently designated and used as a public park and the proposed use and function remains predominantly public recreation and therefore is substantially similar to, though a significant expansion of, the existing use;
4. Enforcing local land use on the property would altogether prevent its use as contemplated in the Project as well as its current, designated, and long-accepted use as a public park, depriving the public of the significant waterfront access and enjoyment at the property;
5. The property is the only Town-owned waterfront property situate in the Town and wholly outside of the Village of Hammondsport, and all lakefront property is zoned Residential within the Town, so there is no alternative location for the Project in a less restrictive zoning area;
6. Various impacts upon local interests have been considered by the Board throughout the planning stages of the Project and again at the February 15, 2022 public hearing—including interrupted lake views, wakes from boats accessing the Project, increased boat traffic on the lake, and potential business losses to a local marina due to added dock slips at the Project—and the Board determines they are outweighed by the anticipated public benefits offered by the Project;
7. The Board considered, and invited and received extensive public input on, alternative methods for providing the proposed improvement years ago during the planning stage, but no method was deemed more beneficial to the public interests of the Town, and the Board now determines that no methods were then or more recently proposed that would significantly mitigate the impacts discussed in Number 6 above while protecting the feasibility of the Project and providing a comparable level of improved public lake access, and further determines that provision of the improvements with adherence to the zoning regulations is impossible;
8. The Board considers the public interests to be served by the Project to be substantial, especially the increased lake access for boaters and pedestrians, with further benefits to the public derived indirectly through expanded tourist appeal that is expected to fuel the local economy and through dock slips for local emergency service providers; and
9. Intergovernmental participation in the project development process is not central in this situation in that the proposed Project is a Town project on Town property under Town zoning regulations, but nonetheless, input from the Village of Hammondsport and the local school district informed the early planning stages and other municipalities have had opportunity for input in various public venues.

III. The Town is therefore exempt from its own zoning regulations with regard to the use of Champlin Beach for the Project.

Ethics Policy

Councilperson Farmer and Supervisor Stull met with Attorney Oklevitch to work on an updated Ethics Policy.

Update of Police Services

Attorney Oklevitch found that we do not have to provide Court security, but it is recommended we do on certain cases. Its discretionary, not mandatory.

The Town will hire the Village of Hammondsport Police services for 4 hours once a month for the Court, and 7 hours a week for the Month of May until October for Town Patrol.

Town of Urbana Celebration

The Town of Urbana Celebration will be on June 11, 2022.

County Road 87 Speed Limit

The office of Traffic Safety and Mobility completed the investigation of the Town's request for a speed limit evaluation on County Road 87, between State Route 54 and Wayne Town line, in the Town of Urbana. It was determined that the current speed limit of 55 miles is appropriate.

Article 78

To date the town has spent \$64,873.00 on legal fee. The Planning board brought an article 78 against the zoning board for making unlawful decisions. Supervisor Stull read a portion of the article 78.

Dog Pavilion

The Dog park division of Friends of Hammondsport Trails and Parks purchased a pavilion, it will be installed when the ground hardens up.

Electric Bill

The Town signed a waiver getting out of Direct Energy, next month we will be with NYSEG.

Using Town Parking lot in the Village During Off Season

Deputy Supervisor Presley talked about how the Town should think about letting people use the Town Parking lot during the off season due to no overnight parking on public roads in the winter.

New Business

Board Member Communication

Councilperson Farmer requests that in order to improve communication, board members should respond to emails directed toward them.

Creation of Reserve funds

On a motion made by Deputy Supervisor Presley, seconded by Councilperson Shaw and carried, all voting Aye to go to public hearing on April 19, 2022 for establishing three capital reserve funds for waterfront project, parks improvement, and highway equipment.

Approval of Curtiss Museum Fly-in Event

On a motion made by Councilperson Farmer, seconded by Councilperson Shaw and carried, all voting Aye to approve the Curtiss Fly-In event on Sept. 16-18, 2022.

Goose Waste

The town will see if a student is available to clean up goose waste on the boardwalk at Depot Park.

Meeting Approvals

On a motion made by Councilperson Farmer, seconded by Councilperson Shaw and carried, all voting Aye to approve Deanna Tompkins to register and attend the Town Clerk Meeting in Albany, NY.

On a motion made by Deputy Supervisor Presley, seconded by Councilperson Farmer and carried, all voting Aye to approve Theresa Stopka to attend the Regional Leadership Conference.

Public Input on Non Agenda Items

None

On a motion made by Councilperson Shaw, seconded by Councilperson Farmer and carried, all voting Aye to enter into Executive Session for Personnel reasons at 7:34 pm, inviting in Clerk Tompkins and Attorney Oklevitch.

On a motion made by Deputy Supervisor Presley, seconded by Councilperson Luppino and carried, all voting Aye to come out of executive session at 8:36 pm.

On a motion made by Councilperson Luppino, seconded By Councilperson Farmer and carried, all voting Aye to close the meeting at 8:39 pm

Respectfully Submitted,

Deanna Tompkins,
Town Clerk