

**November 2, 2021**

At 7:00 PM, Mayor Stumpf called the meeting to order. Due to Covid-19, the Board is meeting in the room next to the Board room so that all can social distance and Public can attend if they so desire.

The following were present:

John Stumpf	Mayor
Trustee Patricia Sherwood	Trustee
Trista Reisdorf	Trustee
Trustee Darwin Dominessy	Trustee
Brandon Stearns	Trustee

Marcia Lexer	Clerk
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**OTHERS PRESENT:** Superintendent of Public Works Daren Smith, Arcade Herald reporter Anderson Miles, Fire Dept members Bobby Kuhn, Chris Hazeltine, Lucas Myzel, , Chief Jeremy Lavery, resident Patty Tierney and exempt member Calvin Pataye.

### **MINUTES**

Trustee Reisdorf seconded by Trustee Sherwood moved suspension of the reading of the Minutes of the previous board meetings of October 5, 2021 inasmuch as Board members had been supplied copies. Carried. Mayor Stumpf announced that corrections and alterations would then be heard, and concluding there were none, the minutes stand approved. Carried.

### **PUBLIC HEARING LOCAL LAW 2-2021**

At 7:00 PM, Mayor Stumpf opened the public hearing on  
**A Local Law Entitled “Prohibition of Smoking”**  
(Legal notice was published in the Arcade Herald on October 14, 2021)

Mayor Stumpf asked if anyone wished to speak, Calvin Pataye asked what was the reason for the no smoking on Village Property law; Trustee Reisdorf commented that recreation was held in the park and it was for the children’s sake, as well as health and safety of all.

At 7:07 PM with no one else wishing to speak, Trustee Stearns, seconded by Trustee Sherwood moved to close the Public Hearing.

Trustee Dominessy aye, Trustee Reisdorf aye, Trustee Sherwood aye, Trustee Stearns aye, Mayor Stumpf aye. 5 ayes, 0 nays, 0 absent. Carried.

### **PUBLIC**

Chris Hazeltine from 38 School Street, who is the EMS Captain of the Delevan Rescue Squad, requested the reinstatement of former member Calvin Pataye. Mr. Hazeltine read a letter to the board citing that Cavlin in the past had been a top responder among other accolades.

Trustee Dominessy made a motion to reinstate Calvin Pataye to the Delevan Fire Co.; there was no second.

## PUBLIC HEARING LOCAL LAW 3-2021

At 7:15 PM, Mayor Stumpf opened the public hearing on **A Local Law Entitled “Cannabis Law Opt-Out”**

(Legal notice was published in the Arcade Herald on October 14, 2021)

Mayor Stumpf asked if anyone wished to speak, Chris Hazeltine stated that he was against the proposed law and suggested that the Village was closing their mind to new business proposals that could bring revenue into the village which could go toward a fire truck.

Reporter Anderson Miles stated that maybe allowing sales in the village it would get people away from fentanyl.

Trustee Stearns stated that with the school close by and the Village being a small community it was a wise decision to opt out.

Supt. Daren Smith stated with the time frame being 12/31/2021 to opt out, it would be better to opt out now and revisit at a later date if need be.

At 7:27 PM with no one else wishing to speak, Trustee Sherwood, seconded by Trustee Stearns moved to close the Public Hearing.

Trustee Dominessy aye, Trustee Reisdorf aye, Trustee Sherwood aye, Trustee Stearns aye, Mayor Stumpf aye. 5 ayes, 0 nays, 0 absent. Carried.

### REPORTS

**Fire Chief Jeremy Lavery reported the following:**

<u>EMS</u>		<u>AUTO ACCIDENT</u>	
Village	14	Town of Yorkshire	03
Town of Yorkshire	09		
Town of Freedom	01	Farmersville	01
Machias	02		
<u>STRUCTURE FIRES</u>		<u>HAZARDOUS CONDITION CALL</u>	
Town of Yorkshire	04	Town of Yorkshire	02
Franklinville	01		

Chief Jeremy Lavery reported there were 37 calls for the month of October. Ham and turkey raffle would be Saturday November 6, 2021.

**Superintendent of Public Works Daren Smith reported the following:**

- 1.) Health Department took 18 bottles of water to do water sample testing for different chemicals in the water.
- 2.) Several leaks fixed both municipal and residential, saving 12,000 gallons of water a day.
- 3.) Toilet in men’s room was stuck open flooding the septic system.
- 4.) The radiator on the generator has been fixed.
- 5.) Town of Yorkshire helped with several projects, Dorita Dr. and South Street.

- 6.) Sidewalk sections still have not been done though signal crew said they were going to be done today.
- 7.) Armstrong directional drilled under the underpass. Had complaints on the cable trailer being parked, it has since been moved.
- 8.) Crossing kids on Main Street has been going okay.
- 9.) Took pictures of Dorita Drive work as well as South Street; California Hill water line is fragile.

Superintendent Smith asked if the sale of the old Chevy Dump truck \$11,470 could be put in a reserve account for Public Works. Mayor Stumpf said he would check with Treasurer Finch.

**Clerk Marcia Lexer reported the following:**

- 1.) All Board Members supplied with a copy of the cash receipts.
- 2.) Issued handicapped parking permits
- 3.) Delivered trash stickers to Crosby's
- 4.) Prepared vouchers/abstract
- 5.) \$5,274.72 owed in taxes, plus penalties of \$421.97 and late notice fees of \$25.00 for a total due of \$5721.69
- 6.) \$23,685.81 owed in water
- 7.) Reviewed Bingo reports

**AUTHORIZE CLERK TO SIGN WATER SUPPORT WITH WILLIMASON LAW**

It was moved by Trustee Sherwood, seconded by Trustee Reisdorf to authorize clerk Marcia Lexer to sign the water support agreement with Williamson Law for the sum of \$1007.

Trustee Dominessy aye, Trustee Reisdorf aye, Trustee Sherwood aye, Trustee Stearns aye, Mayor Stumpf aye. 5 ayes, 0 nays, 0 absent. Carried.

**COMMUNICATIONS**

- 1.) Blue Cross Blue Shield notice of increase in coverage price.
- 2.) Dept. of Public Service – electric and gas seeking rate increases
- 3.) Pivot Energy Public Hearing on November 16, 2021 at Noon at the Town of Yorkshire Town Hall.

**NEW BUSINESS**

- 1.) Tax Collection

**TAXES CURRENT TO TAXES OVERDUE**

It was moved by Trustee Sherwood seconded by Trustee Stearns to adopt the following resolution:

RESOLVED: that the Treasurer be and hereby is authorized to make the following budgetary transfer in the amount of \$5721.69; comprised of \$5,274.72 base taxes, penalties of \$421.97 and late notice fees of \$25.00 from A250 Taxes Current to Taxes Overdue.

Upon roll call vote:

Trustee Dominessy	aye
Trustee Stearns	aye
Trustee Reisdorf	aye
Trustee Sherwood	aye

Mayor Stumpf aye

The resolution was declared adopted.

2.) Polling Place

**POLLING PLACE**

It was moved by Trustee Stearns, seconded by Trustee Dominessy to set the polling place for the March 15, 2022 Village Election to be conducted by the Cattaraugus County Board of Elections to be the Yorkshire Town Hall at 82 S. Main Street, Delevan NY.

Trustee Dominessy aye, Trustee Reisdorf aye, Trustee Sherwood aye, Trustee Stearns aye, Mayor Stumpf aye. 5 ayes, 0 nays, 0 absent. Carried.

- 3.) American Recovery Funds – Mayor Stumpf asked the Board to approve payment of \$800.00 to Daren Smith, Supt. of Public Works, \$600.00 to Clerk Marcia Lexer, \$400.00 to Constable/Dog Control Officer Joe Neamon, \$400.00 to Code Enforcement Officer Christopher Lexer and \$400.00 to Treasurer Diane Finch for working through the pandemic, citing that their responsibilities did not stop.

**AMERICAN RECOVERY FUNDS**

It was moved by Trustee Sherwood, seconded by Trustee Stearns to pay Daren Smith \$800, Marcia Lexer \$600, Joe Neamon \$400, Chris Lexer \$400 and Diane Finch \$400 through the American Recovery Funds.

Trustee Dominessy aye, Trustee Reisdorf aye, Trustee Sherwood aye, Trustee Stearns aye, Mayor Stumpf aye. 5 ayes, 0 nays, 0 absent. Carried.

**UNFINISHED BUSINESS**

- 1.) Crossing Guard applications –

**EXECUTIVE SESSION**

It was moved by Trustee Stearns, seconded by Trustee Sherwood to move into an Executive Session at 7:49 PM with the Clerk and Superintendent to stay to discuss a personnel matter.

Trustee Dominessy aye, Trustee Reisdorf aye, Trustee Sherwood aye, Trustee Stearns aye, Mayor Stumpf aye. 5 ayes, 0 nays, 0 absent. Carried

At 8:13 PM it was moved by Trustee Stearns, seconded by Trustee Dominessy to close the Executive Session.

Trustee Dominessy aye, Trustee Reisdorf aye, Trustee Sherwood aye, Trustee Stearns aye, Mayor Stumpf aye. 5 ayes, 0 nays, 0 absent. Carried

- 2.) Local Laws

**VILLAGE OF DELEVAN  
LOCAL LAW NO. 2 OF THE YEAR 2021**

## **A Local Law Entitled “Prohibition of Smoking”**

BE IT HEREBY ENACTED BY THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF DELEVAN, CATTARAUGUS COUNTY, NEW YORK, AS FOLLOWS:

### Section 1. Legislative Intent

The Village Board of Trustees of the Village of Delevan finds that the prohibition of smoking upon all real property owned or leased by the Village of Delevan is in the best interest of protecting public health.

### Section 2. Definitions

“Smoking” shall mean inhaling of, exhaling of, burning of, or carrying of any lighted cigar cigarette, pipe, weed, or other plant in any manner or any form, and shall also include the inhaling or exhaling of smoke/vapor from an electronic smoking device.

“Electronic Smoking Devices” shall mean an electronic device that can be used to deliver nicotine or other substances to the person inhaling from the device, including but not limited to an electronic cigarette, cigar, cigarillo or pipe.

### Section 3. and Text of Local Law

Smoking and/or the use of electronic smoking devices upon all real property owned or leased by the Village of Delevan is prohibited.

### Section 4. Penalty for Violation

Each Violation of this law shall be a violation of the Penal Law and shall be punishable by a fine of \$250.00 per each offense.

### Section 5. Effective date.

This local law shall take effect upon its filing with the New York State Secretary of State.

It was moved by Trustee Stearns, seconded by Trustee Reisdorf to pass **Local Law #2  
A Local Law Entitled “Prohibition of Smoking”**

.Trustee Dominessy aye, Trustee Reisdorf aye, Trustee Sherwood aye, Trustee Stearns aye, Mayor Stumpf aye. 5 ayes, 0 nays, 0 absent. Carried

## **VILLAGE OF DELEVAN LOCAL LAW NO. 3 OF THE YEAR 2021 A Local Law Entitled “Cannabis Law Opt-Out”**

BE IT HEREBY ENACTED BY THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF DELEVAN, CATTARAUGUS COUNTY, NEW YORK, AS FOLLOWS:

### Section 1. Legislative Intent

It is the intent of this local law to request the Cannabis Control Board of the State of New York (“Cannabis Control Board”), as established pursuant to the New York Cannabis Law, Chapter 7-

a of the Consolidated Laws of the State of New York (“Cannabis Law”), to permit the Village of Delevan (“Village”) to opt out of allowing cannabis retail dispensaries and on-site cannabis consumption sites within the Village of Delevan, that would otherwise be allowed under Article 4 of the Cannabis Law.

The Village Board of Trustees finds that, at the current time, it is in the best interests of the residents of the Village of Delevan to adopt a local law as per Cannabis Law § 131 prohibiting and requesting the Cannabis Control Board to prohibit the establishment of cannabis retail dispensaries and on-site cannabis consumption sites that would otherwise be allowed under the Cannabis Law. The Village Board finds that permitting such establishments without reviewing the unique and novel impact that the establishment of such businesses would have on the health, safety and welfare of the residents of the Village of Delevan, given, among other things, the relative close proximity of commercial locations within which such establishments might be located to parks, school, churches and residential zones throughout the Village, coupled with as yet unresolved issues addressing enforcement of the new laws and guidelines related to cannabis use, would not be, at the current time, in the interests of Village residents. The Village adopts this local law in accordance with the timeframe and guidelines as set forth in Cannabis Law § 131.

## Section 2. Authority

This local law is adopted pursuant to Cannabis Law § 131 which expressly authorizes a Village board to adopt a local law requesting the Cannabis Control Board to prohibit the establishment of cannabis retail dispensaries and on-site cannabis consumption sites licenses within the jurisdiction of the Village and is subject to a permissive referendum, the procedure of which is governed by Municipal Home Rule Law § 24.

## Section 3. Local Opt-Out

The Village Board of the Village of Delevan hereby opts out from allowing the establishment of cannabis retail dispensaries and on-site cannabis consumption sites within the Village and requests the Cannabis Control Board prohibit the licensing and establishment of such cannabis retail dispensaries and on-site cannabis consumption sites within the of Village of Delevan.

## 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. Permissive Referendum

This local law is subject to a referendum on petition in accordance with Cannabis Law § 131 and the procedure outlined in Municipal Home Rule Law § 24.

Section 6. Effective date.

This local law shall take effect in accordance with Municipal Home Rule Law §24, namely, forty-five days after its adoption and upon filing with the Secretary of State within twenty days after the time period for filing a petition in accordance with Municipal Home Rule §24 has expired. In the event a valid petition protesting against this local law is filed within forty-five days after its adoption, then this local law shall not be effective until approved by the affirmative vote of a majority of the qualified electors of the Village of Delevan voting on a proposition for its approval in accordance with the requirements of Municipal Home Rule Law §24.

It was moved by Trustee Sherwood, seconded by Trustee Stearns to pass **Local Law #3 A Local Law Entitled “Cannabis Law Opt-Out”**

Trustee Dominessy aye, Trustee Reisdorf aye, Trustee Sherwood aye, Trustee Stearns aye, Mayor Stumpf aye. 5 ayes, 0 nays, 0 absent. Carried

**APPOINTMENT**

It was moved by Trustee Sherwood, seconded by Trustee Reisdorf to hire Rose Dodge as substitute crossing guard for \$18.75 per day; 45 minutes in the morning 45 minutes in the afternoon.

Trustee Dominessy aye, Trustee Reisdorf aye, Trustee Sherwood aye, Trustee Stearns aye, Mayor Stumpf aye. 5 ayes, 0 nays, 0 absent. Carried

**PAY CLAIMS**

The bills for the previous month of October were presented and audited. It was moved by Trustee Reisdorf seconded by Trustee Sherwood to make payment of \$12,736.18 Abstract #6, \$10,136.45 in General Fund Claims and \$2,599.73 in payment of Water Fund Claims.

Trustee Dominessy aye, Trustee Reisdorf aye, Trustee Sherwood aye, Trustee Stearns aye, Mayor Stumpf aye. 5 ayes 0 nays 0 absent. Carried.

**ADJOURNMENT**

At 8:18 PM it was moved by Trustee Stearns, seconded by Trustee Dominessy to adjourn. Carried.

**Marcia Lexer, Village Clerk**