

February 13, 2012

Board of Trustees

Proceedings by Authority

State of New York
Village of Celoron
Community Center

ss:

The regular meeting of the Board of Trustees of the Village of Celoron, New York was held on Monday, February 13, 2012 at 7:00 P.M.

Members Present: Mayor Keeney, Trustees Kogut, Mattison, Schrecengost and Young

Others Present: Village Clerk-Treasurer Shirley A. Sanfilippo, MMC, Village Attorney John D. Vanstrom, Highway Superintendent Terry Schrecengost, five members of the public and Dennis Phillips of The Post-Journal (arrived at 7:25 p.m.)

Mayor Keeney called the meeting to order, asked the Clerk to call the roll and led the Pledge of Allegiance.

MAYOR'S COMMENTS:

Mayor Keeney advised that a Farmer's Market was being planned for this summer in Lucille Ball Memorial Park. It was anticipated to be conducted on Saturdays. He asked for input from the Trustees and Department Heads. He also commented on the placement of the Mayors and Celoron School plaques in the Community Center.

Samantha Vanstrom, Laurie Adams, Nicholas Lamer, Nathan Lamer and Zack King of Reality Check gave a presentation on smoking, tobacco marketing and its effects on young people.

OPPORTUNITY FOR PUBLIC COMMENT:

None

APPROVAL OF MINUTES:

Trustee Mattison motioned, seconded by Trustee Young to approve the minutes of the Regular Meeting held on January 9, 2012.

Carried: 5 ayes

COMMITTEE REPORTS

PUBLIC SAFETY – Trustee Kogut gave the report from the Code Enforcement Officer. Mayor Keeney apprised the Board of the work that the Code Enforcement Officer had done regarding Chautauqua Lake Auto; the progress on the Code Book; and the continuing problem with the residence on West Ninth Street.

ANIMAL CONTROL – Trustee Schrecengost stated that the Village has a court date coming up that the Village Attorney may have to attend if the Animal Control Officer is unable to attend. He advised that the deer management program was completed.

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PARKS & RECREATION – Trustee Young reported that the Summer Concert Series would be held on Wednesday evenings from 6:30 p.m. to 8:30 p.m. at the Desi Arnaz Bandshell in Lucille Ball Memorial Park. The dates will be June 13th and 27th, July 11th and 25th and August 8th. The Board discussed the current rental fees for the Community Center.

Trustee Schrecengost moved, seconded by Trustee Mattison to change the rental fees to \$35.00 for residents and \$70.00 for non-residents. The security deposit will stay the same, \$50.00.

Carried: 5 ayes

HIGHWAY AND EQUIPMENT – Trustee Mattison and the Board reviewed the results of proposals for a new pickup truck and discussed the highway equipment repairs for last year.

ZONING & PLANNING – Trustee Schrecengost – none

SANITATION – Trustee Mattison advised that a date should be set for spring clean-up.

Trustee Mattison moved, seconded by Trustee Young to set spring clean-up for Saturday, May 19, 2012 from 9:00 a.m. to 3:00 p.m.

Carried: 5 ayes

BUSINESS – Trustee Kogut – none

CORRESPONDENCE – Clerk Sanfilippo reviewed the following correspondence:

1. Communication from NYCOM on 2012-13 NYS Executive Budget.
2. Thank you from Steve & Marilyn Wozneak for the Holiday Lighting Contest.
3. Notification of rates from Infinity Trust for vision plan.
4. Notification from Time Warner Cable of possible network changes.
5. NYCOM Winter Legislative Meeting.
6. Southern Tier West Municipal News.
7. DEC draft bobcat management plan.

FINANCE – Entire Board/Clerk

Mayor Keeney asked for approval of Abstract #16 in the amount of \$16,567.13, Check #1340 thru 1360 dated January 10-31, 2012 and Abstract #17 in the amount of \$11,518.14, Check #1361 thru 1380, dated February 1-13, 2012 and Trust & Agency Abstract #5, in the amount of \$80.00, Check #5012, dated January 31, 2012.

Trustee Mattison moved, seconded by Trustee Young to approve payment of the abstracts.

Carried: 5 ayes

AUDIT – Trustee Mattison – none

INSURANCE – Trustee Young – none

BUILDING – Trustee Young and the Board discussed the overhang on Village Hall. It is rotted and needs to be repaired or replaced. They also talked about the need to replace the roof and the handicap ramp on the Community Center. The Board discussed the boat ramps and whether or not to change the pitch of the second ramp.

SPECIAL EVENTS – Trustee Mattison – none

OLD BUSINESS

Mayor Keeney stated that the third Public Meeting for the LWRP was held on Wednesday, January 25, 2012 at 7:00 p.m. in the Community Center. The Draft Plan was shown to those present and is available at the Village Hall.

NEW BUSINESS

Mayor Keeney and the Board discussed designating Martin Luther King Day as a holiday for Village employees. A resolution will be prepared for next month's meeting.

RESOLUTIONS

Resolution #11 - 2011-12

BOND RESOLUTION DATED FEBRUARY 13, 2012 AUTHORIZING THE ISSUANCE AND SALE OF \$ 45,000.00 SERIAL BONDS OF THE VILLAGE OF CELORON, CHAUTAUQUA COUNTY, NEW YORK TO PAY FOR PURCHASE OF A 2002 INTERNATIONAL MODEL 4400 6X4 TANDEM AXLE TRUCK AND A 2012 CHEVROLET 2012 ¾ TON PICKUP TRUCK.

BE IT RESOLVED, this 13th day of February, 2012 by the Board of Trustees of the Village of Celoron, Chautauqua County, New York, as follows:

Section 1. For the object or purpose of authorizing the funds to defray the costs thereof for the purchase of a 2002 International Model 4400 6X4 Axle Truck and a 2012 Chevrolet ¾ Ton Pickup Truck in the amount of FORTY-FIVE THOUSAND DOLLARS (\$45,000.00) to be the terms, forms, and contents, hereinafter provided for, shall be issued pursuant to the provisions of the Local Finance Law of the State of New York. Said purchase of Capital Improvements should be paid from the annual budget of that year.

Section 2. The plan for financing that object or purpose consists of the issuance of FORTY-FIVE THOUSAND DOLLARS (\$45,000.00) Serial Bonds of the Village of Celoron in the principal sum of, to be applied to the maximum estimated cost of such object or purpose.

Section 3. It is hereby determined that the object or purpose of which said Serial Bonds are to be issued falls within Subparagraph "28" of Section 11 of the Local Finance Law and the period of probable usefulness of such object or purpose is FIVE (5) years.

Section 4. The proposed maturity of the Serial Bonds hereby authorized will not be in excess of FIVE (5) years.

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Section 5. Full faith and credit of the Village of Celoron are hereby pledged to payment of principal of those bonds and interest thereon when due.

Section 6. The bonds shall not be issued in the event that the interest rate therefore exceeds TWELVE PERCENT (12%) per annum.

Section 7. The Treasurer of the Village of Celoron is hereby authorized and directed to sell bonds at a private sale in accordance with the provisions of Local Finance Law, Section 63.

**BOND ANTICIPATION NOTE CERTIFICATE OF THE TREASURER
OF THE VILLAGE OF CELORON, COUNTY OF CHAUTAUQUA, STATE OF NEW YORK
AUTHORIZING THE ISSUANCE OF \$ 45,000.00 BOND ANTICIPATION NOTE TO PAY
THE COSTS OF A 2002 INTERNATIONAL MODEL 4400 6X4 TANDEM AXLE TRUCK
AND A 2012 CHEVROLET ¾ TON PICKUP TRUCK**

I, SHIRLEY A. SANFILIPPO, Treasurer of the Village of Celoron, Chautauqua County, New York, do hereby certify as follows:

(1) At a meeting of the Village Board of the Village of Celoron held on the 13th day of February, 2012 at the Community Center, 47 Dunham Avenue, Celoron, New York, the Village Board granted to the Treasurer, pursuant to Local Finance Law, Section 30.00, the power to authorize the issuance of a bond anticipation note in the sum of at least FORTY-FIVE THOUSAND DOLLARS AND NO CENTS (\$45,000.00) such sum to be applied to the 2002 International Model 4400 6X4 Tandem Axle Truck and a 2012 Chevrolet ¾ Ton Pickup Truck. Such authority is still in full force and effect, and has not been modified, amended or revoked.

(2) In accordance with such authorization and pursuant to the provisions of the Local Finance Law, Section 23.00, I have authorized the issuance of FORTY-FIVE THOUSAND DOLLARS AND NO CENTS (\$45,000.00) in a single issue Bond Anticipation Note, and prescribed the terms, contents and forms thereof.

(3) The issuance of the Bond Anticipation Note is for a purpose, payment of the cost of a 2002 International Model 4400 6X4 Tandem Axle Truck and a 2012 Chevrolet ¾ Ton Pickup Truck as described in Local Finance Law, Section 11.00.

(4) The resolution adopted by the Village Board of the Village of Celoron authorizes the issuance of Serial Bonds for the payment of the purchase price of a 2002 International Model 4400 6X4 Tandem Axle Truck and a 2012 Chevrolet ¾ Ton Pickup Truck in anticipation of the sale of which this Bond Anticipation Note is to be issued. No Bond Anticipation Note has heretofore been issued in anticipation of the bond authorized as shown in said resolution or for any other purchase. The Bond Anticipation Note to be issued pursuant to this is certified as follows:

| <u>DATE OF ISSUE</u> | <u>DATE OF MATURITY</u> | <u>INTEREST</u> | <u>AMOUNT</u> |
|----------------------|-------------------------|-----------------|---------------|
| March 1, 2012 | March 1, 2013 | 2.25% | \$45,000.00 |

Dated: February 14, 2012

Shirley A. Sanfilippo, Treasurer

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Mayor Keeney moved, seconded by Trustee Mattison to approve the resolution.

Carried: 5 ayes

Resolution #12 – 2011-12

RESOLVED, That the proposal of Ed Shults Chevrolet, Inc., 300 Fluvanna Avenue, Jamestown, New York for the purchase of a 2012 Chevrolet Silverado 2500 HD 4WD Extended Cab with a plow and an add-on convenience package in the amount of \$33,082.00 less a trade-in allowance of \$17,500.00 for a net amount of \$15,582.00 be and hereby is accepted. This being the lowest net proposal meeting specifications of the seven proposals received.

Mayor Keeney moved, seconded by Trustee Kogut to approve the resolution.

Carried: 5 ayes

Resolution # 13 -2011-12

Resolved, That Village Clerk-Treasurer Shirley A. Sanfilippo and Deputy Clerk Jetta L. Wilson be and they hereby are authorized to attend the Office of the State Comptroller Basic Accounting School to be held in Pittsford, New York on March 20-22, 2012 with expenses to paid pursuant to Section 77-b of the General Municipal Law.

Mayor Keeney moved, seconded by Trustee Mattison to approve the resolution.

Carried: 5 ayes

LOCAL LAW TO BE PRESENTED

LOCAL LAW NO. 1 OF 2012

A LOCAL LAW INSTITUTING A MORATORIUM ON LAND USE APPROVALS IN THE AREA CURRENTLY UNDER STUDY AS PART OF IMPLEMENTING THE LOCAL WATERFRONT REVITALIZATION PLAN OF THE VILLAGE OF CELORON, NEW YORK

BE IT ENACTED by the Village Board of the Village of Celoron, New York, pursuant to the authority and provisions of §10 of the Municipal Home Rule Law and §§ 7-708 and 7-725a of the New York State Village Law, as follows:

SECTION 1. PURPOSE

The purpose of this Local Law is to regulate and control land use and protect the public health, safety and welfare of the residents of the Village of Celoron and to maintain the status quo in

regard to any land use or development by temporarily suspending the processing of land use approvals as provided herein and thereby suspend the rights of land owners and their designees to obtain land use and development approvals as identified below for a period of one year while the Village of Celoron Board of Trustees (hereinafter referred to as the "Village Board") undertakes a study to allow the implementation of a Local Waterfront Revitalization Plan and potential revisions to the Code Book of the Village of Celoron. The Village Board's goal is to promote the ecological, cultural, historical, educational and economic resources which are of the utmost importance to the Village of Celoron and its residents, and to serve the best interests of the residents of the Village of Celoron by providing an opportunity for the community to engage in the public process with the Village Board to adopt a Local Waterfront Revitalization Plan that is acceptable to the New York State Department of State, absent competing development pressure from either residential, industrial or commercial development which might impede the process and ultimately frustrate the goals as set forth in the Local Waterfront Revitalization Plan. The moratorium will also provide the Village Board with time to consider and adopt any local laws or ordinances required to carry out the goals and objectives specified in the Local Waterfront Revitalization Plan.

SECTION 2. LEGISLATIVE FINDINGS

The Village Board does hereby find that appropriate measures must be taken to secure a reasonable moratorium on land use application approvals within the boundaries being studied pursuant to the Village of Celoron Local Waterfront Revitalization Plan to protect the purposes as stated in Section 1 hereinbefore while the Village Board completes said study and undertakes a review and potential revision to the Code Book of the Village of Celoron and any other local laws or ordinances regulating this area of the Village, including any required compliance with the analysis and procedures mandated by the State Environmental Quality Review Act ("SEQRA").

The area being studied as part of the Local Waterfront Revitalization Plan (hereinafter referred to as the "study area") is more particularly bounded and described as follows: Beginning at the point of intersection of the northerly boundary of West Livingston Avenue and the westerly shoreline of Chautauqua Lake thence easterly along the northerly boundary of West Livingston Avenue to the point of intersection with the westerly boundary of Melvin Avenue; thence northerly along the westerly boundary of Melvin Avenue to the point of intersection of the northerly boundary of Boulevard Avenue; thence westerly along the northerly boundary of Boulevard Avenue to the easterly property line of Lucille Ball Memorial Park; thence northerly along the easterly boundary of Lucille Ball Memorial Park to the shoreline of Chautauqua Lake; thence westerly and southerly along the shoreline of Chautauqua Lake to the point and place of beginning.

The analysis and related studies will include, but not be limited to, studies concerning the most appropriate land use in the study area given its proximity to Chautauqua Lake, the business district of the Village and the public park known as Lucille Ball Memorial Park. The appropriateness of various types of potential land uses in the study area needs to be reviewed, i.e. whether it should be primarily residential, commercial, industrial, office or a combination of these land uses. This analysis will require studies concerning the interrelated issues of density, traffic, water use, sewage use and drainage. By instituting a moratorium that will maintain the land use development status quo, the Village Board is providing for the planned orderly growth and development of the Village of Celoron.

Therefore, the Village Board finds that it is necessary and appropriate to institute a moratorium for a period of one year on the issuance of land use approvals, as provided for herein, in the study area to maintain the status quo while the Village Board considers and reviews a Local Waterfront Revitalization Plan and further considers any local laws or ordinances required to carry out the goals and objectives as defined in the Local Waterfront Revitalization Plan.

SECTION 3. MORATORIUM IMPOSED; APPLICABILITY

- A. For a period of one year following the effective date of the adoption of this Local Law, the following shall apply to all new development, construction, or any land use approvals in the aforementioned study area within the Village of Celoron:
- i) The Village Board and/or the Celoron Zoning Board of Appeals (hereinafter referred to as the "Board of Appeals") shall not accept for review, continue to review, hold a hearing or make any decision upon the application for site plan review or other application of any new development or construction within the study area, except as otherwise provided in Subsection B of this Section.
 - ii) The Code Enforcement Officer of the Village of Celoron shall not issue building permits nor review nor grant approval to any applications, plans, maps, or proposals for new structures or land uses within the study area, except as otherwise provided in Subsection B of this Section.
 - iii) The Village Board and/or the Village Board of Appeals shall not issue any special use permits, area variances or use variances for any new development or uses within the study area, except as otherwise provided in Subsection B of this Section.
 - iv) No applications for the expansion of currently operating uses, including the grant of a special use permit, area or use variance or other approval by the Board of Appeals shall be granted in the study area except as otherwise provided in Subsection B of this Section.
- B. The provisions of Subsection A shall not apply to the following developments or construction within the study area:
- i) Maintenance or repair of existing structures which do not otherwise change the size, essential character or nature of such structures.
 - ii) Issuance of building permits for structural repairs to existing structures, making existing structures or facilities handicapped accessible and interior renovations or alterations which do not result in new commercial, industrial or residential uses not in existence on the date of the enactment of this Local Law.
 - iii) The continued development of any use for which a building permit has been issued by the Village of Celoron Code Enforcement Officer prior to the effective date of this act, or for which a site plan has been approved by the Board of Appeals prior to the effective date of this act.
- C. This Local Law shall be binding on the Code Enforcement Officer, Planning Board, Board of Appeals, Village Board and any applicant or real property owner in the Village of Celoron who owns or controls real property in the study area.

During the period of the moratorium, the Village Board shall endeavor to complete all reasonable and necessary review, study, analysis and, if warranted, revisions to the Code Book of the Village of Celoron.

This moratorium may be extended for two additional periods of up to three months each by Resolution of the Village Board upon a finding of the necessity of such extension.

SECTION 4. HARDSHIP

- A. **Intent.** Should any owner of property affected by this Local Law suffer an unnecessary hardship due to the enforcement of this Local Law, then the owner of said property may apply to the Village Board in writing for relief from strict compliance with this Local Law. The application shall include a submission of proof of such unnecessary hardship.
- B. **Substantive Requirements.** No relief shall be granted hereunder unless the Village Board shall specifically find and determine and shall set forth in its resolution granting such exemption that:
- i) Failure to grant an exemption to the property owner will cause the property owner unnecessary hardship, which hardship is substantially greater than any harm to the general public welfare resulting from the granting of the exemption. For the purposes of this Local Law, unnecessary hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a building permit, variance, special use permit, site plan or other permit during the period of the moratorium imposed by this Local Law; and
 - ii) The grant of the relief requested, even if the project or activity for which the relief requested is approved, will clearly have no adverse effects upon any of the Village's goals or objectives in undertaking the community planning effort or in adopting this moratorium and shall be consistent with the goals and objectives as determined through the public process of developing, drafting and implementing the Local Waterfront Revitalization Plan, including, but not limited to, consideration of any effects or uses detrimental to the community's resources or character, or any other adverse environmental impacts; and
 - iii) The project or activity for which the petitioner seeks an exemption is in harmony and consistent with any interim data or recommendations or conclusions that may be drawn from the Town or community-planning effort then in progress.
- C. **Procedure.** Upon submission of a written application to the Village Clerk by the property owner seeking relief from this Local Law, the Village Board shall, within thirty (30) days of receipt of said application, schedule a public hearing on said application upon five (5) days' written notice in the official newspaper of the Village. At said public hearing, the property owner and any other person or party wishing to present evidence with regard to the application shall have an opportunity to be heard, and the Village Board shall, within thirty (30) days of the close of the public hearing, render its decision either granting or denying the application for relief from the strict requirements of this Local Law. If the Village Board determines that a property owner will suffer an unnecessary hardship if this Local Law is strictly applied to a particular property, then the Village Board shall grant relief from this Local Law and shall impose such conditions to provide that the relief granted shall be to the minimum extent necessary to provide the property owner relief from strict compliance with this Local Law. The Village Board may impose any conditions on such grant of relief that is deemed necessary.
- Should relief from this Local Law be granted by the Village Board, the project shall be subject to all applicable provisions of the Code Book of the Village of Celoron and Laws, including the issuance of a special use permit or site plan review, when applicable.
- D. **Construction.** Section 4 of this Local Law is intended, and shall be deemed and construed to supercede any contrary provisions contained in Article 7 of the New York Village Law, and Chapter 19 of the Code of the Village of Celoron.

SECTION 5. DEFAULT APPROVALS ABOLISHED

Notwithstanding any law, rule or regulation to the contrary, no application for any land use approval within the aforementioned study area subject to this moratorium shall be deemed granted or dispensed with as a result of the passage of time.

SECTION 6. EFFECT ON OTHER LAWS

To the extent that any law, ordinance, rule or regulation, or parts thereof, are in conflict with the provisions of this Local Law, this Local Law shall control.

SECTION 7. SEVERABILITY

Should any clause, sentence, paragraph, subdivision, section or other part of this local law be adjudicated by any court of competent jurisdiction to be invalid, such judgment, decree or order shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or other part thereof directly involved in the controversy in which such judgment, decree or order shall have been rendered and to this end, the provisions of each section of this local law are hereby declared to be severable.

SECTION 8. PENALTIES

Any person, firm, corporation or other entity which shall construct, erect or install any building, improvement or structure or allow any land use in violation of the provisions of this Local Law, shall be subject to a civil penalty in the amount of Five Hundred Dollars (\$500.00) each day that such violation shall exist. Nothing herein contained shall be construed so as to limit the authority of the Village Board to seek and obtain injunctive relief for any such violation or violations.

SECTION 9. SEQRA

This matter constitutes a *Type II Action under the State Environmental Quality Review Act* inasmuch as it constitutes the adoption of a moratorium on land development or construction [6 NYCRR §617.5(c)(30)]. As such, this project is not subject to review under the State Environmental Quality Review Act.

SECTION 10. EFFECTIVE DATE

This local law shall become effective immediately upon filing with the New York State Secretary of State.

Mayor Keeney moved, seconded by Trustee Mattison to approve the Local Law.

Carried: 5 ayes

MAYOR'S COMMENTS:

Mayor Keeney reminded the Board Members and Department Heads that their budget requests needed to be submitted to him by March 1, 2012

OPPORTUNITY FOR PUBLIC COMMENT:

None

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Mayor Keeney motioned to adjourn the meeting. Trustee Schrecengost seconded the motion.

Carried: 5 ayes

The meeting was adjourned at 7:55 p.m.

Shirley A. Sanfilippo, MMC
Village Clerk-Treasurer