

**THE MINUTES
FOR THE JUNE 19, 2018
MEETING OF THE BOARD OF TRUSTEES
OF THE INCORPORATED VILLAGE OF NORTHPORT
REGULAR MEETING
6:30 PM.**

PRESENT: Mayor McMullen, Trustee Kehoe, Maline, Milligan and Smith, Deputy Village Clerk Christa Cook, Village Administrator Tim Brojer, Village Attorney Stuart Besen, Village Treasurer Len Marchese, Police Chief Bill Ricca.

ANNOUNCEMENTS: none

PRESENTATIONS: no presentations

PUBLIC HEARINGS: no public hearings

PUBLIC PARTICIPATION: A couple of homeowners of North Rd. addressed the Board regarding the conditions of Woodbine Ave. they have requested a sidewalk in front of 244 Woodbine for sometime now. Mr. Brojer explained that the conditions in front of 244 Woodbine do not allow for a sidewalk. The Village has hired a contractor for the paving. The plan is to pave Woodbine from North Rd, to 5th Ave. and from North Rd. to 25A will remain concrete. The Village will be fixing the sidewalks and adding handicapped ramps. Joe Sabia, stated that he has spoken to several storeowners who are in favor of the law allowing phone numbers. Mayor McMullen suggested the attended the public hearing on July 17, 2018.

A homeowner requested a crossing sign at the corner of Cherry Street and Main Street. The street already has a painted crosswalk and the Board agreed to put up the sign.

Ms. Spencer questioned what constitutes a struck, and the board stated anything over 5000 pounds.

BOARD APPROVAL OF WARRANT:

On the motion of Trustee Maline and seconded by Trustee Milligan the following bills were approved for payment.

Fiscal Year 2018/2019 General Fund bills in the amount of \$38,142.53

On the motion of Trustee Kehoe and seconded by Trustee Smith the following bills were

approved for payment.

Fiscal Year 2018/2019 Sewer Fund bills in the amount of \$9,460.48

On the motion of Trustee Maline and seconded by Trustee Milligan the following bills were approved for payment.

Fiscal Year 2018/2019 Fire Department bills in the amount of \$23,751.83

On the motion of Trustee Maline and seconded by Trustee Milligan the following bills were approved for payment.

Fiscal Year 2018/2019 Trust Fund bills in the amount of \$550.00

COMMISSIONER REPORTS: Trustee Maline reported he and the Chief have met with the outgoing members (some are graduating) Drug and Alcohol Task Force. The task force is looking for volunteers. Also, there is resolution on tonight to hire a new full time Deputy Court Clerk.

Trustee Smith reported the Parks Department is gearing up for the pre-prom party this Thursday. Also, the parks committee has had their first meeting and was well attended. She thanked Josephine and Mike Rizzoni for rounding up the troops and getting the word out. There was garden club along with the rowing club representation. We will prioritize our mission and look for money either from the budget or by applying for local grants.

Park safety is our foremost goal along with working on the benches, pavilion and putting up a single split rail fence replacing the phone poles. For IT we are waiting for a third bid on the CAT 5 cable. Our summer help will be beginning her work on the website.

Trustee Kehoe reported tat he and Tim attended a meeting on shared services. The Business Development committee continues to meet. We will have several parking meter companies coming in over the next few meetings.

Trustee Milligan reported the Blessing of the Fleet was a beautiful event with perfect weather. We continue to look at grants to help lower the cost to homeowners of hooking up to the new sewer line. We plan to schedule a meeting to bring the homeowners up to speed on exactly what will take place. The Village continues to replace regular lightbulbs with LEDs.

Mayor McMullen reported highway has been out doing asphalt work, painting lines, trees and the usual cardboard.

CHIEF OF POLICE REPORT: all good nothing to report this evening.

ADMINISTRATOR'S REPORT: The Village has been working with Asplun and now has a large pile of tree chips that can be taken by residents for free.

TREASURER'S REPORT: nothing to report this evening.

NEW BUSINESS: As owner of 51 Mariners Lane Trustee Kehoe left the room; the Village Attorney explained the Village Board has received an appeal of an application to the Board of Architectural and Historic Review Board (ARCHIE Board) There was a fire at 51 Mariners Lane and the applicant went before the Board of Architectural Review who determined the house to be over 100 years old. The applicant provided proof that the house was not 100 years old and therefore the Board had no jurisdiction and a demolition permit should be issued. The ARCHIE Board issued a decision that the house was over 100 years old and that they would not issue the permit. Pursuant to Village Code the Board of Trustees is authorized to review the determination of the ARCHIE board and then has two choices; either to affirm the ARCHIE's decision or to remand it back to the ARCHIE Board for reconsideration based on a written determination of the Board of Trustees. This is not a public hearing. Mr. Modelewski who is representing the homeowner addressed the Board asking to be heard. The Mayor allowed him to speak. Mr. Modelewski went over several case studies, stating that the ARCHIE Board had no documented proof for denying a demolition permit. Mayor McMullen decided the Board would hold a special meeting to allow the Village Attorney to write up a decision whereby the Village Board would remand the case back to the ARCHIE Board for re-evaluation.

OLD BUSINESS: no old business was discussed this evening.

CORRESPONDENCE: no correspondence this evening.

REQUESTS: no requests this evening.

RESOLUTIONS:

On the motion of Trustee Milligan and seconded by Trustee Kehoe the following resolution was unanimously approved.

RESOLUTION 2018 -111~ JUNE 5, 2018 MINUTES

BE IT RESOLVED: The minutes of the June 5th, meeting, are hereby accepted.

On the motion of Trustee Maline and seconded by Trustee Milligan the following resolution was unanimously approved.

RESOLUTION 2018-112 ~ COURT CLERK'S FALL CONFERENCE

BE IT RESOLVED: Village Court Clerk Tanya Karpf is hereby authorized to attend the NYS Association of Magistrates Court Clerk Conference September 16, through September 19th 2018 In Lake Placid, New York in an amount not to exceed \$1250.00

The following resolution was put to a roll call vote:

Trustee Maline ~ YES

Trustee Kehoe ~ NO

Trustee Smith ~ YES

Trustee Milligan ~ YES

Mayor McMullen ~ YES

RESOLUTION 2018-113 ~ BANK OF THE OZARKS

BE IT RESOLVED: The Treasurer, is hereby authorized to open a bank account or accounts from time to time with the Bank of the Ozarks One Rockefeller Plaza, Suite 400 New York, NY 10020.

On the motion of Trustee Maline and seconded by Trustee Milligan the following resolution was unanimously approved.

RESOLUTION 2018 -114 ~ HIRING OF DEPUTY CLERK OF THE VILLAGE COURT

BE IT RESOLVED: That the Board of Trustees of the Village of Northport hereby hires Dawn Belmonte to the position of Deputy Clerk of the Village Court at an annual salary of \$40,000.00. (40/hrs. weekly), to be effective June 20th, 2018, and

BE IT FURTHER RESOLVED: That Ms. Belmonte will receive a \$4500 stipend in lieu of health care benefits.

BE IT FURTHER RESOLVED: That Monday night court will be counted as five hours towards Ms. Belmonte's 40 hr. work week.

On the motion of Trustee Maline and seconded by Trustee Milligan the following resolution was unanimously approved.

RESOLUTION 2018 -115 ~ SET PUBLIC HEARING ON PROPOSED LOCAL LAW "E" OF 2018

PLEASE TAKE NOTICE: a public hearing of the Board of Trustees of the Village of Northport will be held on July 17th, 2018 at 6:30 in the evening in the Northport Village Hall 224 Main Street to consider proposed local law "E" of 2018.

PROPOSED LOCAL LAW "E" OF 2018

A LOCAL LAW TO AMEND CHAPTER 306 ZONING VILLAGE OF NORTHPORT BY ADDING CHAPTER 306-50 ~ ESTABLISHMENT OF MICRO-BREWERIES

Chapter 306-50

ESTABLISHMENT OF BREWERIES

Section 306-50.1. Purpose.

It is the intention of the Board of Trustees of the Incorporated Village of Northport to enact legislation to protect the public health, safety, welfare and the environment by regulating the establishment and operation of breweries that manufacture and produce craft beer.

Section 306-50.2 Definitions.

Brewery Distillery-A business located in a building where the primary use is for the manufacturing and production of craft beer and retail distribution of the craft beer it produces and manufactures and which is duly licensed as a Micro-Brewery with the New York State Liquor Authority which produces the minimum amount permitted by the New State Liquor Authority.

Tasting Room-A room that is attached to a brewery that allows patrons to sample and consume beer that is produced by the Brewery Distillery. No beer wine or any other alcoholic beverages other than what is produced by the Brewery Distillery is permitted to be sampled or sold in a tasting room.

Biochemical Oxygen Demand (BOD)-The result obtained when using an approved laboratory procedure to determine the quantity of oxygen utilized in the biochemical oxidation of organic matter in five (5) days at twenty degrees centigrade (20 C.) expressed in parts per million (ppm) or milligrams per liter (mg/l).

Total Suspended Solids (TSS)-The dry weight of suspended particles, that are not dissolved in a sample of water that can be trapped by a filter that is analyzed using a filtration apparatus when using an approved laboratory procedure expressed in parts per million (ppm) or milligrams per liter (mg/l).

Section 306-50.3 Permitted Zoning Districts.

A. The establishment and operation of breweries may only be located in the Central Business A District, Highway Business District and the Marine Business District subject to the following conditions and requirements.

- (1) All tasting and retail sale shall be conducted indoors.
- (2) No noxious fumes or odors to be generated from the premises.

- (3) The brewery shall have a prevention wastewater treatment retention facility (a/k/a an equalization tank) installed on premises and acceptable to Northport Village Administrator with the advice of and consultation with the Northport Village Engineer. All existing breweries shall have six (6) months from the enactment of this code to install on their premises a treatment retention facility (a/k/a an equalization tank) acceptable to the Village Administrator or be in violation of this code and be subject to the penalties as enumerated in this code.

B. A brewery shall be permitted to have as an ancillary use a tasting room as defined in Section 306-50.2.

Section 306-50.4 Surcharge Requirements.

A. Due to the characteristics of liquid waste from the production and manufacturing of craft beer from a brewery and more specifically the generating of excess BOD and excess TSS that enumerates levels that have a deleterious effect upon the Sewage Treatment Facility and the excess cost to the Village of Northport to safely treat, transport and dispose of the BOD and the TSS, the Village of Northport shall charge each Brewery a surcharge.

B. Any Brewery that discharges BOD into the Sewer Treatment Facility in excess of the limit specified below shall be charged a surcharge by the Village of Northport:

- (1) Five-day twenty-degree centigrade BOD: 300 parts per million maximum.

C. Any Brewery that discharges TSS into the Sewer Treatment Facility in excess of the limit specified below shall be charged a surcharge by the Village of Northport;

- (1) TSS: 300 parts per million maximum.

Section 306-50.5 Testing Requirements.

A. The Village of Northport shall have the right to enter and inspect any part of the premises served by the public Sewage Treatment Facility for the purpose of obtaining samples of wastes and inspecting flow-measuring devices or treatment facilities provided to prevent excess BOD discharge. The inspection shall be conducted by the Village of Northport or their respective designee and may enter upon the premises at any reasonable time to inspect for BOD discharge levels. Inspections shall be conducted no less than once a month and no greater than three times a month to compel compliance.

B. All measurements, tests and analysis of the characteristics of wastewaters, discharges or wastes called for under this article, shall be performed in accordance with the latest edition of

Standard Methods for the Examination of Water and Waste Waters, published by the American Public Health Association, Inc., et. Al; ASTM Standards, Part 31, Water, Atmosphere Analysis, published by the American Society for Testing and Materials; Methods for Chemical Analysis of Water and Wastes, published by the United States Environmental Protection Agency; and/or 40 CFR Part 136, Guidelines establishing Test Procedures for the Analysis of Pollutants, including amendments to any of the foregoing at the option of the village administrator, such other standards he or she may designate.

C. All laboratory testing costs associated with analysis of the waste stream shall be borne by the owner of said facility at the current rate schedule of the testing facility employed to provide such services by the Village. The Village shall have the sole discretion to choose the laboratory testing facility. All fees associated with the testing including administrative and labor fees shall be borne by the owner of the facility.

Section 306-50.6 Surcharge calculations and charges.

A. A Brewery Distillery as defined in Section 306-47.2 who discharge waste water in the Northport Sewer Treatment Facility shall be charged in an addition to the annual fee as stated in Section 239 of the Village Code, a surcharge for the excess BOD and TSS produced

- (1) The surcharge shall be calculated by the Brewery Distillery's discharge of BOD and TSS in excess of the limit as defined in Section 306-50.4 (B) (1) (also known as permitted discharge of BOD and TSS). The permitted BOD discharge will be subtracted from the BOD and TSS discharge level that is found during the monthly inspection conducted by the Village of Northport or its designee. If at the sole discretion the Village of Northport conducts more than one inspection in a given month period the BOD and TSS level shall be determined by averaging the samples collected from the Brewery Distillery's user's waste water discharge for that month.
- (2) The number of gallons of waste that contain BOD and TSS in excess of what is permitted is then multiplied by the Village's monthly cost per gallon to treat the BOD and TSS and the resulting number is the monthly surcharge that is semi-annually due by the Brewery Distillery.
- (3) The Village of Northport will estimate the incremental cost to treat and dispose of BOD and TSS expressed in dollars per pound for BOD and dollars for pound for TSS and will include these surcharge rates within its annual budget. The rates established for the Northport Village Fiscal year of 2018/2019 shall be a rate of BOD 67 cents per pound and for TSS shall be 69 cents per pound. These numbers shall be established by the Northport Village Board annually upon the adoption of the budget.

B. Said surcharge shall become due and payable on the first day of June and December in each year or such other day or dates as may be determined by the Board of Trustees. The invoices shall be mailed to the owner of the Brewery and the owner of the land in which the Brewery operates. They shall be collected by the Village Treasurer and shall constitute a lien on real property pursuant to Article 14-F of the General Municipal Law. There shall be an additional charge of 1% per month on any invoice that is not paid beginning 31 days after the date of the invoice is sent out.

Section 306-50.7 Penalties for offenses.

A. For each violation of the provisions of this article, the property owner, the person(s) in charge of or operator of the Brewery Distillery where such violation has been committed or exists shall be held liable, on conviction thereof, to a fine or penalty of not less than \$500.00 nor more than \$5000.00 for a conviction of a first offense, upon conviction of a second offense where the offense is committed within a period of two years of the first offense, a fine not less than \$1000.00 nor more than \$10,000.00; and the conviction of a third or subsequent violation where the offense is committed within a period of two years of the first and second offense, upon conviction of a third offense punishable by a fine of not less than \$1500.00 nor more than \$15,000.00. Each day or part thereof such violation continues following notification by the Village or service of a summons shall constitute a separate offense punishable in like manner.

B. In addition to the criminal penalties set forth herein, the Village Attorney is authorized to pursue civil and equitable relief, including but not limited to compensatory actions, civil penalties in the amount not to exceed \$250.00 per day, or any part thereof, an action to compel compliance with or to restrain by injunctive the violation of this article, and any other remedies which in the opinion of the Village Attorney may seem necessary and proper. Such civil and equitable relief may be sought in a court of competent jurisdiction. Any civil monetary penalty awarded may be added to the tax bill of the property where the violation has occurred and shall be collected in the same manner.

C. In any civil or equitable action or proceeding commenced in the name of the Village of Northport for violations of this article, if the Village is successful in its action or proceeding then the Village of Northport is authorized to seek recovery of its attorney's fees in addition to other civil penalties.

D. The remedies provided for in this article are not exclusive of any other remedies available under applicable federal, state or local law.

Section 306-50.8 Off Street Parking.

A. Any Brewery Distillery as defined by this code and lawfully existing in the Village of Northport at the time of adoption of this Code under either a Special Use Permit or Variance or both granted by the Zoning Board of Appeals shall be exempt from the application of Section 306-21 of the Northport Village Code respecting off street parking for Business Districts. Any Brewery Distillery proposed under this Code following the adoption of this code shall provide off street parking at the rate of one space for every 75 square feet of area of the premises of the Brewery Distillery.

Section 306-50.9 Construal of provisions; severability; repealer.

A. Application. No statement in this chapter shall be construed to interfere with any additional requirements that may be imposed by any federal, state or local health authority having jurisdiction.

B. Separability. If any provision of this chapter shall be adjudged invalid, the judgment shall apply only to the provision so adjudged and shall not effect, impair or invalidate any other provision off this chapter.

C. Repealer. All ordinances or local laws or parts thereof in conflict with this chapter are hereby repealed.

This code shall be in effect upon adoption by the Board of Trustees

On the motion of Trustee Maline and seconded Trustee Smith the following resolution was unanimously approved.

RESOLUTION 2018- 116 RELEASE OF PERFORMANCE BOND

WHEREAS: the Village attorney reviewed the June 8, 2018 letter from Carlos Cala requesting the release of Savings Certificate #0430300394 in the amount of \$48,000 and

WHEREAS the Village Attorney has approved such release,

THEREFORE, BE IT RESOLVED: Saving Certificate # 0430300394 is hereby release to Mr. Carlos Cala.

The next regular meeting of the Board of Trustees will be on July 17, 2018 at 6:30 P.M

A RESOLUTION FOR AN EXECUTIVE SESSION: if necessary, for personnel and/or litigation matters.

Respectfully submitted,

Donna M. Koch, Village Clerk