

TOWN OF SOUTHEAST
1360 Route 22, Brewster, New York 10509
Thursday, May 6, 2021
WORK SESSION / REGULAR MEETING 7:00 P.M.

Pledge of Allegiance

Present: Supervisor Tony Hay
Councilman John Lord
Councilman Eric Larca
Councilman John O'Connor
Councilman Edwin Alvarez

Also: Town Clerk Michele Stancati
Town Attorney Willis H. Stephens Jr.

This meeting took place by videoconferencing, Zoom, and was recorded and posted on the Town of Southeast website.

WORK SESSION

Discussion – MS4 Annual Report

Supervisor Hay stated that every year the Town has to complete an MS4 report, which is done by Victoria Desidero; Planning and Zoning Secretary, Tom Fenton the Town Engineer, and Michael Burdick, the Highway Superintendent. The Supervisor said that we will set a Public Hearing tonight for the next meeting and approve the report the same night, as we have done in the past due to time restraints.

REGULAR MEETING

Supervisor Hay made a motion to open the Regular Meeting and Councilman Larca seconded. All in favor.

RESOLUTION NO. 30 / 2021 LOCAL LAW – PROHIBITION OF MARIHUANA DISPENSARIES & CONSUMPTION ESTABLISHMENTS

INTRODUCED BY: Supervisor Hay
SECONDED BY: Councilman Alvarez

WHEREAS, a resolution having been adopted by the Town Board of the Town of Southeast for a public hearing to be held by said Town Board to hear all interested parties on a

proposed local law which would amend the Code of the Town of Southeast to prohibit the establishment of dispensaries for the recreational sales of marihuana / cannabis and/or the establishment of marihuana / cannabis consumption establishments within the boundaries of the Town of Southeast; and

WHEREAS, notice of said public hearing was advertised in an official newspaper of the Town of Southeast in the manner prescribed by law; such public hearing was held on April 22, 2021; and all interested persons were given an opportunity to be heard at that time; and

WHEREAS, it is the sense of this Town Board that the proposed local law will help promote the general health, safety and welfare of the public.

NOW, THEREFORE, BE IT

RESOLVED, the Town Board of the Town of Southeast hereby adopts Local Law No. 1 of 2021 pursuant to the Municipal Home Rule Law amending the Town Code by enacting an unconsolidated chapter entitled “PROHIBITION OF MARIHUANA DISPENSARIES AND CONSUMPTION ESTABLISHMENTS”; and be it further

RESOLVED, that the adoption of this Local Law is subject to PERMISSIVE REFERENDUM; and be it further

RESOLVED, that the Town Clerk be and hereby is authorized and directed to (a) enter said Local Law in the minutes of this meeting; and (b) shall forthwith cause to be published a NOTICE OF ADOPTION OF LOCAL LAW SUBJECT TO PERMISSIVE REFERENDUM in an official newspaper of the Town; and (c) after forty-five (45) days having passed with no valid petition for referendum having been filed or after the holding of such referendum and such local law having been upheld, give due notice of the adoption of said local law by filing such with the Secretary of State of New York within the time required by law.

UPON A ROLL CALL VOTE:

Councilman Alvarez	<u>Aye</u>
Councilman Larca	<u>Aye</u>
Councilman Lord	<u>Nay</u>
Councilman O’Connor	<u>Aye</u>
Supervisor Hay	<u>Aye</u>

VOTE: Resolution passed, by a vote of 4, to 1, 0 abstained.

PROPOSED LOCAL LAW NO. 1/2021

AN ACT to Prohibit the Establishment of Marihuana Dispensaries and/or On-Site Marihuana Consumption Establishments within the Town of Southeast.

Section 1. Legislative Intent. On March 31, 2021 the Governor of the State of New York

signed into law the Marihuana Regulation and Taxation Act (“MRTA”), Chapter 92 of the Laws of 2021, which legalized the adult recreational sales and use of Marijuana and Marihuana products within the State of New York. MRTA allows localities to “opt out” of permitting adult recreational sales of Marihuana products or the establishment of on-site recreational Marihuana consumption premises within their borders provided a local law is adopted on or before December 31, 2021 declaring such are prohibited. It is hereby found and determined by this town board that the detriments to be caused by the legalization of recreational sales of Marihuana products far exceed the benefits presented to Town of Southeast and its residents and, therefore, the establishment of adult recreational marihuana dispensaries and on-site consumption establishments should be prohibited within the municipal boundaries of the Town of Southeast.

Section 2. Marihuana Sales Prohibited. There shall be no establishment of Marihuana Sales Dispensaries and/or on-site marihuana consumption establishments within the municipal boundaries of the Town of Southeast.

Section 3. Permissive Referendum. This local law is subject to Permissive Referendum as provided by law.

Section 4. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged 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, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 5. Effective Date. This local law shall take effect immediately upon filing in the Office of the Secretary of State.

RESOLUTION NO. 31 / 2021 AMMENDED GAS LAND SOUTHEAST PERFORMANCE BOND ESTABLISHMENT

INTRODUCED BY: Supervisor Hay

SECONDED BY: Councilman Alvarez

WHEREAS, on February 18, 2021 the Town Board of the Town of Southeast adopted Resolution No. 10/2021 establishing the amounts for performance bonds in connection with the GAS LAND SOUTHEAST commercial site plan relating to property located at 3411 Danbury Road (Route 6), Southeast Tax Map Nos. 68.-2-69 (the “Project”); and

WHEREAS, Resolution No. 10/2021 inaccurately reflected the amount recommended by the Planning Board and the Town Engineering Consultant for the Erosion and Sediment Control Bond component for the Project; and

WHEREAS, it is the intention of this Town Board to correct the previous resolution to reflect the correct principal amount of the surety required for this project.

NOW, THEREFORE, BE IT

RESOLVED, that the bond amount shall be established for the Project set forth below:

PROJECT NAME:

BOND AMOUNT:

GAS LAND SOUTHEAST

Site Improvements \$41,000.00
Erosion & Sediment \$ 2,600.00

And be it further

RESOLVED, that a certified copy of this resolution shall be transmitted by the Town Clerk to the Planning Board Secretary and Building Inspector forthwith.

UPON A ROLL CALL VOTE:

Councilman Alvarez Aye
Councilman Larca Aye
Councilman Lord Aye
Councilman O'Connor Aye
Supervisor Hay Aye

VOTE: carried by a vote of 5 in favor 0 against; 0 abstained.

RESOLUTION NO. 32 / 2021 ACE ENDICO – EXPANSION PERFORMANCE BOND ESTABLISHMENT

INTRODUCED BY: Supervisor Hay
SECONDED BY: Councilman Larca

WHEREAS, the Town Board of the Town of Southeast is in receipt of a report and recommendation from the Town Engineer and referral from the Planning Board with respect to the Performance Security to be posted by ACE ENDICO in connection with a site plan application relative to property located at International Boulevard, Southeast Tax Map Nos. 45.-1-31.1, 45.-1-31.2 & 45.-1-29 (the “Subject Premises”) a/k/a “ACE ENDICO - EXPANSION” (the “Project”); and

WHEREAS, by letter dated April 26, 2021 from the Town Planning Board as supported by a letter dated April 8, 2021 from Nathan L. Jacobson & Associates, Inc., the Town’s Engineering Consultant, it is recommended that the performance security for the Subject Premises be established for this project.

NOW, THEREFORE, BE IT

RESOLVED, that the bond amount shall be established for the Project set forth below:

PROJECT NAME:

ACE ENDICO - EXPANSION

And be it further

BOND AMOUNT:

Site Improvements	\$1,781,000
Erosion & Sediment	\$61,500

RESOLVED, that a certified copy of this resolution shall be transmitted by the Town Clerk to the Planning Board Secretary and Building Inspector forthwith.

UPON A ROLL CALL VOTE:

Councilman Alvarez	<u>Aye</u>
Councilman Larca	<u>Aye</u>
Councilman Lord	<u>Aye</u>
Councilman O'Connor	<u>Aye</u>
Supervisor Hay	<u>Aye</u>

VOTE: carried by a vote of 5 in favor 0 against; 0 abstained.

RESOLUTION NO. 33 / 2021 D'UVA – FIELDS LANE DEVELOPMENT
231 FIELDS LANE REDUCTION OF PERFORMANCE BOND

INTRODUCED BY: Supervisor Hay
SECONDED BY: Councilman Alvarez

WHEREAS, the Town Board of the Town of Southeast is in receipt of a report and recommendation from the Town Engineer and Planning Board with respect to the Reduction of Performance Bond for the D'UVA – FIELDS LANE DEVELOPMENT site plan located at 231 Fields Lane, Town of Southeast Tax Map No. 78.-2-90; and

NOW, THEREFORE, BE IT

RESOLVED, that the bond amount for the following project is set as follows:

<u>PROJECT NAME</u>	<u>PRESENT AMOUNT</u>	<u>RECOMMENDED TO</u>
D'UVA – FIELDS LANE	\$412,000.00	\$131,000.00

ROLL CALL VOTE:

Councilman Alvarez	<u>Aye</u>
Councilman Larca	<u>Aye</u>
Councilman Lord	<u>Aye</u>
Councilman O'Connor	<u>Aye</u>
Supervisor Hay	<u>Aye</u>

The resolution was passed by a vote of 5 to 0, with 0 abstentions.

**RESOLUTION NO. 34 / 2021 ACCEPTANCE OF BIDS – AWARD OF CONTRACT
HIGHWAY MATERIALS**

INTRODUCED BY: Supervisor Hay
SECONDED BY: Councilman Alvarez

WHEREAS, the Town of Southeast is in receipt of responses to its duly advertised Request for Bids for the 2021-2022 construction season for various materials and supplies used in connection with the Town Highway Department; and

WHEREAS, the Town Highway Superintendent has reviewed the proposals / bids submitted and has recommended to the Town Board the acceptance of the proposals and award of contract(s) to the lowest responsible bidder in each instance.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Southeast accepts the proposals for the following materials and supplies to the listed vendors as the lowest responsible bidders:

<u>MATERIAL</u>	<u>LOWEST RESPONSIBLE BIDDER</u>
Plastic Pipe – All Sizes	Chemung Supply Corp
Concrete Products	Chemung Supply Corp
Corrugated Metal Pipe	Chemung Supply Corp
Calcium Chloride (bags)	Chemung Supply Corp
Filter Fabric (all sizes)	Chemung Supply Corp
Snow Plow / Grader Blades	Chemung Supply Corp
Silt Fence	Chemung Supply Corp
Bituminous Concrete (all types)	Peckham Materials
Liquid Calcium	Peckham Materials
Aggregates	Peckham Materials – Patterson/Wingdale
Black Top (in place)	Inter County Paving
Cold Planning (milling of blacktop)	Inter County Paving
Equipment Rental	Kect Construction

AND BE IT FURTHER

RESOLVED, that the Town Clerk is hereby directed to forward a copy of this resolution to the Town Accounting Department and Superintendent of Highways forthwith.

Upon Roll Call Vote:

Councilman Alvarez Aye
Councilman Larca Aye
Councilman Lord Aye
Councilman O'Connor Aye
Supervisor Hay Aye

VOTE: carried by a vote of 5 in favor, 0 against; 0 abstained.

PUBLIC COMMENT

Lynne Eckardt asked about the public referendum that would be needed on the sale or consumption of Marihuana locally; would that be generated by the Public or would the Town authorize the Public referendum? Supervisor Hay stated that it would be done by the public within 30 days. Ms. Eckardt wanted to confirm that they would only have 30 days to get enough signatures to call for a referendum; she thought it was more. Town Attorney Stephens responded that he believes that is correct. Councilman Lord asked what the signature amount would be. Town Attorney Stephens stated that it used to be 5% of the eligible electors in the Town, but due to Covid, that might have changed. Ms. Eckardt stated that she believes it has but she can find out from the Board of Elections. Town Attorney Stephens stated that he believes they have 30 days under the general law unless there was something different in the legislation establishing this whole legalization rubric. He believes it's 30 days in most permissive referendums. Ms. Eckardt read a publication that the County put out about this and she thought the time was longer but thanked the Town Attorney and stated she would reread that. Councilman Lord said he was reading some information Mayor Schoenig sent and it stated that petitions must be filed in the city clerk's office within 45 days within the adoption of the local law. Town Attorney Stephens said that he will look into it. It could be 45 days set by the statute that created the legalization of Marihuana.

TOWN BOARD COMMENT

Councilman Lord thanked the residents for all their help with the Town Cleanup. He also thanked the Supervisor for sending a letter to Senator Harckham about Cobb Rd. and hopefully we'll get some funding to ease the issues of the residents of Peach Lake. Supervisor Hay stated that last year we put in for a grant and it was denied, so we're coming forward with another grant looking for some help recouping some of the money for engineering and testing. What's unusual with our situation is it's between two Counties and two Towns, North Salem and Town of Southeast. Since the problem originated in our Town, it's our responsibility and Senator Harckham has both our districts, so hopefully he will help us out.

Supervisor Hay stated that Earth Day went very well, a lot of people participated, and he is working on the photos for the webpage and calling everyone to see if they want to be recognized.

Supervisor Hay wished everyone a Happy Mother's Day.

Councilman Lord asked everyone to please be careful on the roads, there's lots of bikes and people hiking, look out for them.

Councilman Alvarez made a motion to close the meeting and Councilman Larca seconded. All in favor.

Respectfully submitted,

Michele Stancati
Southeast Town Clerk