

March 16, 2011

The regular meeting of the Cassadaga Village Board was held March 16, 2011 at 7:00 P.M. with Mayor LeeAnn Lazarony presiding. Trustees present were Rodney Waite, Jeff Frick, Ron Dechard and Mike Lehnen. Also in attendance were Deputy Clerk Valerie Culverwell and Tom Fetter.

RESOLUTION # 42

APPROVAL OF MINUTES

Motion made by Trustee Waite, second by Trustee Dechard to approve the minutes of March 2, 2011. VOTE: 4 AYES, 0 NAYS.

ACCEPT AGENDA

RESOLUTION # 43

A Motion was made by Trustee Frick, second by Trustee Lehnen to approve the agenda. VOTE: 4 Ayes, 0 Nays.

GUESTS:

Sheila Kroon, Maple Ave. and Historian John Sipos and Susan Sipos of Pennington.

Historian John Sipos gave his yearly report and a few high points of local history that he has found this past year. The county Bicentennial started Feb 9th and celebrations will be held until October.

ATTORNEY MIKE NORRIS'S REPORT

- **He is reviewing Time Warner Franchise contract.**

BOB ARMSTRONG STEARNS & WHELER REPORT:

- **Closing out paper work for Contract 1 on Putnam Road.**
- **H&K plans on starting back up on construction for Bard Road next week. With the Change Orders on Contract #3 we should see an \$11,000 savings.**
- **Contract # 4 for Maple Avenue is waiting for Rural Development's approval.**

RESOLUTION # 44

ACCEPT PROJECT AS COMPLETED FOR CONTRACT 1

Mayor Lazarony moved to accept Project 1 as completed and recommend final payment paid in full for Application for payment #4. VOTE: 4 AYES, 0 NAYS.

RESOLUTION # 45

APPROVE SCRAP METAL POLICY

Trustee Waite moved to accept Policy #1 of 2011 Scrap Metal Policy for the Village of Cassadaga, second by Trustee Frick. VOTE: 4 AYES, 0 NAYS.

Village of Cassadaga
Scrap Materials
Policies and Procedures

1. ***Department Responsibilities:*** Village departments that produce scrap metals or other materials through normal operations or dispose of “junked” assets and equipment that contain metal or other materials that possess scrap value shall coordinate disposal of such through the Village Highway Superintendent. The Village Highway Superintendent is responsible for disposing of the materials in a manner which is environmentally responsible and in the best financial interest of the Village of Cassadaga. Prior to their disposal, all fixed assets must be declared as surplus items by the Village Board.

2. ***Financial Tracking:*** The Village Highway Superintendent shall maintain accurate records for all transactions involving disposal of scrap materials including weight slips, invoices and receipts. Authorized Village employees shall not receive cash for any transaction involving the disposal of scrap materials. Scrap processors and vendors shall be required to make payment via check or other electronic transaction directly with the Village Clerk’s office. Authorized employees shall be responsible for turning an appropriate load slip or bill of lading into the Village for proper recordkeeping and tracking of payments.

3. ***Storage of Materials:*** The Village Highway Superintendent should arrange for delivery of scrap materials to processors and vendors as frequently as possible. When the storage or accumulation of scrap materials is required, the Village Highway Superintendent shall make every effort to secure and control these items from access by the public or from unauthorized employees.

4. ***Authorized Employees:*** The Village Highway Superintendent shall be responsible for designating employees that are authorized to collect, handle and process scrap materials. These employees shall be briefed on scrap material policies and procedures. Only authorized employees shall deliver scrap materials to processors and other vendors. Employees will be required to show picture identification (i.e. driver’s license) to scrap processors and state that they are turning in scrap materials on behalf of the Village of Cassadaga.

RESOLUTION # 46

INTRODUCE LOCAL LAW 1 OF 2011 TO ESTABLISH THE RULES AND REGULATIONS FOR THE USE OF PUBLIC WATER SYSTEM OF THE VILLAGE OF CASSADAGA.

Trustee Waite introduced Local Law 1 of 2011 which replaces Local Law #2 of 2005, a Local Law to Establish the Rules and Regulations for the use of the Public Water System. VOTE: 4 AYES, 0 NAYS.

LOCAL LAW NUMBER 1 OF 2011
OF THE VILLAGE OF CASSADAGA

FINAL DRAFT AS OF MARCH 3, 2011

A Local Law to Establish the Rules and Regulations for the Use of the Public Water System of the Village of Cassadaga.

Be it enacted by the Board of Trustees of the Village of Cassadaga, County of Chautauqua and State of New York, as follows:

ARTICLE 1: PURPOSE AND STATUTORY AUTHORITY-

The purpose of this Local Law is to promote and protect the public health, welfare, and safety by regulating the use of the public water system of the Village of Cassadaga by residents of the Village, and by persons located outside the Village. This law is adopted under the authority of Article II of the Village Law of the State of New York.

ARTICLE 2. REPEALER-

This Local Law supersedes and replaces Local Law Number 70-4, Local Law Number 1 of 2003, Local Law Number 3 of 2003 and Local Law 2 of 2005 of the Village of Cassadaga, which previous Local Laws are repealed by the enactment of this Local Law.

ARTICLE 3. DEFINITIONS-

For application in this Local Law, the following definitions will apply:

- A. "Board" means the Village Board of Trustees of the Village of Cassadaga or its duly authorized representative.
- B. "Building" includes any structure or enclosure to which water is supplied, whether attached to realty or not, whether the same be occupied or vacant.
- C. "Superintendent" means the Superintendent of the Village Water Department.

- D. "User"- an owner, tenant, lessee, occupant, tenant, receiver or assignee of premises supplied with water, including a consumer of water, irrespective of his legal status with respect to the property.
- E. "Water Department" - refers to Village employees assigned by the Village Board to act on the Village's behalf.
- F. "Water System" - consists of any and all wells, reservoirs, treatment facilities, equipment, and connecting water lines operated and maintained by the Village of Cassadaga.

ARTICLE 4. APPLICATION FOR WATER SUPPLY-

A. No person shall use the Village water for any purpose unless an application to the Village has been made therefore. All applications for the introduction of supply of water to any premises, or for replacement and/or modification of an existing installation, or for the extension of any pipe or line for the conveyance of water, must be made in writing to the Village Clerk by the owner of the premises being supplied, or, if the applicant is not the owner of the premises, the written consent of the owner must accompany the application. The application shall state the name of the applicant, the address where said water is to be used, the uses and purposes for which the water is desired, and, if applicable, the name and address of the plumbing contractor who will be performing the work.

B. The use of the water, when granted, shall be subject to the rules and regulations

C. The Village Board reserves the right to refuse any application if in its judgment, it shall be in the best interest of the Village.

D. A fee, as established from time to time by the Village Board, shall be paid upon the filing of each application for each specific service line. Such amount shall be on file in the Village Clerk's Office.

ARTICLE 5. INSTALLATIONS AND MAINTENANCE -

A. No opening shall be made in the paved portion of any municipal street for purposes of connecting to the water mains, by anyone except the water department.

B. Each new connection to water mains of the Village shall be made at the sole expense of the property owner.

C. All private service lines installed or replaced shall be of a type and size as required by the Superintendent of the Water Department.

D. The Water Department shall designate the point at which the water main is to be tapped, and the position of the service pipe connection at the tap. All connections or taps of water mains shall be made by the Water Department, after receipt by the Water Department of proof that the application as provided for in Article 4, above, has been submitted and approved, and the required fee(s) paid at least 24 hours in advance of the time the connections or taps are requested to be made. Such connections and taps will be made at the convenience of the Water Department.

E. In every installation of water service, the owner or applicant shall provide facilities for setting of a water meter, according to specifications provided by the Water Department. Such facilities shall include provision for the water meter to be set in a horizontal position in such manner to afford ready access to inspect, and shall be protected against frost, steam, or hot water. There shall be provided, by the owner or applicant, a shutoff valve on each side of the meter. The cost of installation of meters, except for the replacement of defective meters, shall be borne by the owner or applicant.

F. No new tap shall be made to a water main to connect with a service line which is intended to replace an existing service line, unless the existing service line is properly disconnected at its tap to the main. The expense of each disconnection shall be borne by the owner or applicant.

G. Where a service line is abandoned or discontinued, the service line must be shut off and discontinued at the curb box, at the expense of the owner. Unless said service is shut off and disconnected at the curb box, the user shall be charged a debt service fee and minimum water rate as established from time to time by the Village Board.

H. All water users must keep their service pipes and all fixtures connected therewith in good repair and protected from frost, leaks, and breaks, at their own expense. The Village shall not be liable for any damage resulting from freezing or bursting pipes, leaks, or failure to keep in repair. If an owner fails to observe these requirements, in addition to the other penalties hereinafter provided, the Village may, at its election, after notice given, discontinue the water supply to such user, and assess the cost thereof against the real property affected.

I. There shall be a separate and distinct tap and meter for each service in a building or premises supplied with water (other than an accessory building on the same premises). Where there are separate and distinct

establishments contained within one building (such as apartments, stores, restaurants, or other places of business), separate and distinct taps and meters shall be provided for each separate user of water within the building or structure. In the event that structures existing prior to the enactment of this Law do not meet this requirement of separate taps, the Village Board may, at its election, waive the requirement of separate taps, and may bill each separate facility or establishment within the building, for which water is supplied, as a separate water service, including any debt service fee.

J. No in-house or private water system shall in any way be interconnected or capable of being interconnected with the Village water system.

K. Back flow preventers, which adequately protect against back flow and/or contamination of the Village water system, shall be installed and maintained at the premises, by owners, or users of water, in the following types of uses: commercial buildings or uses, golf courses, dwellings or buildings in which fire sprinklers are installed, outdoor spigots, and any and all new construction of dwellings or buildings commenced after the effective date of this law, to which Village water is to be supplied.

ARTICLE 6. ACCESS TO PIPES AND FIXTURES-

The Water Department shall at all reasonable times have free access to enter upon the premises of any user for the purpose of inspection, reading, repair and/or replacement of meters.

ARTICLE 7. REPAIRS-

A. All repairs necessitated by damage or maintenance needed between the curb box and the building being supplied shall be performed by, and at the sole expense of, the owner. All replacement of defective lines from the main to the curb box shall be done at the expense of the Village.

B. Whenever a water service pipe becomes frozen between the main and the building, the Water Department may shut off or disconnect service, and such service shall not be resumed until the water service line is thawed by the owner, and an inspection has been made determining that the service line has not been damaged by reason of such freezing. The cost of disconnecting or discontinuing the water service and the inspection and reconnection shall be borne by the owner.

ARTICLE 8. WATER METERS-

A. Water meters of a size not greater than two (2)

inch inlet and outlet will be furnished by the Village Water Department, for the exclusive use of the Water Department, to be connected by the Water Department, to the owner's properly-prepared plumbing supply, as provided in Article 5., Section E, above. Owners shall be responsible for furnishing large water meters of two (2) inch or more inlet and outlet in size. The cost of installation of all meters shall be borne by the owner or applicant.

B. Upon recommendation of the Water Department, and approval by the Village Board, the requirement of an installation of a water meter may be waived, and the consumption of water be charged on a flat fee to be determined by the Village Board.

C. Title to any water meter supplied by the Village shall remain in the Village.

D. No person other than an employee of the Water Department shall interfere with or remove any water meter, sealing device or coupling from any meter installation, after it has been placed in service by the Water Department. Any meter damaged by frost, hot water, steam, or any careless or negligent acts of the owner or user, shall result in the cost of repair being assessed to the owner or user, and such costs shall be a charge upon the real property. Any willful acts by the owner or user, resulting in damages to a water meter, or any acts designed to interfere with the proper operation of a water meter, in addition to the penalties for violation hereinafter provided, shall also be cause for a discontinuance of water service, and the cost of such discontinuance shall be assessed to the owner and charged to the real property.

E. The sub-metering or sale or gift by water consumers to others is strictly prohibited, and, in addition to the penalties for violation hereinafter provided, shall be cause for the Village to discontinue water service and charge the cost of discontinuance to the owner. Such costs shall be a charge against the real property.

F. No water meter may be removed without written permission from the Water Department. The Water Department may remove a meter at any time for testing, maintenance, or substituting another meter, temporarily or permanently.

G. In circumstances where the customary location of a water meter is impractical, the Water Department may require the water meter to be set in a pit or box, provided by and at the expense of the owner or applicant, the construction of which shall be approved by the Village. It shall be the responsibility of the owner to maintain the

pit or box meter location at all times, and should the owner fail to do so, upon written notice of not less than thirty (30) days, the Village may make such repairs as it deems necessary and assess all costs of repair to the owner, which shall be a charge against the real property.

ARTICLE 9. WATER RATES AND RELATED CHARGES-

A. Water rates, service tap fees, charges and any debt service fees shall from time to time by resolution of the Board be established and amended. Such amounts shall be on file in the Village Clerk's Office.

B. All water rates, service tap fees, charges and debt service fees for consumers within the Village shall be payable, even though no water be consumed, so long as the service remains connected with the Village curb box.

C. Payment shall be made at the office of the Village Clerk during regularly established business hours. Payment made by mail shall be deemed to have been received at the time of mailing as evidenced by the date of the postmark.

D. All water rates shall be charged on a basis of the amount registered on the meters installed, or on a flat rate basis as herein provided, with a debt service amount (including any service fee). The Village may provide post cards to the users requiring the users to read their meters and return the readings to the Village Hall by a date specified therein. The Village shall attempt to read all meters twice a year. Billings may be based upon estimated usage, using available dates. Whenever billings are based upon estimated or customer readings, any discrepancy disclosed by an actual reading of the meter will be billed as a charge for the semi-annually for which the reading was made.

E. All water rates, service tap fees, charges and debt service fees shall become due on the first day of June and December of each year. Said amounts shall be paid before the thirtieth (30th) day of the month in which they become due. Said amounts not paid on or before the thirtieth (30th) day of the month in which they become due will be charged at the gross rate. The gross rate shall be ten per cent (10%) above the net rate. Partial Payments may be accepted by the Village Clerk at any time prior to certification for inclusion in tax levy as authorized by resolution of the Village Board.

F. If water rates for any premises remain unpaid for sixty (60) days or a longer period of time after becoming due, the supply of water to said premises may be shut off, upon 10 day notice, and will not be restored until all past due charges are paid. A fee shall be charged in advance

before water service is restored as established from time to time by resolution of the Board. Such amount shall be on file in the Village Clerk's Office.

G. All water rates, penalties and interest thereon, and all charges for tapping, connection and disconnection, and all other charges provided for by this local law shall be a lien on the real property upon which the water is used, and such lien shall be prior and superior to every lien or claim, except the lien of any existing tax. The Village Board shall certify to the Village Clerk the amount of such lien which has not been paid at the time and in the manner described by the board, with a description of the real property affected thereby, and the board of trustees shall order any such amount be included in the annual tax levy and shall levy the same upon the real property affected if any such total amount is in the arrears over nine months.

ARTICLE 10. WATER RATES FOR CONSUMERS OUTSIDE VILLAGE-

A. Water supplied to consumers outside the boundaries of the Village shall be on such terms and such conditions as may be fixed by the Village Board. The Village Board may require that there be deposited with the Village a sum equivalent to the estimated cost of water to be supplied to an applicant for each ensuing six (6) month period, and that such deposit be held as security for collection of the water rent.

B. Any water supply to consumers outside the Village limit shall be furnished only upon an agreement that the Village assumes no obligation to maintain any facilities not owned by the Village.

C. Water rates, service tap fees, charges and debt service fees payable by consumers outside the Village shall, from time to time, be established and amended by the Village Board. Such amounts shall be on file in the Village Clerk's Office.

D. Consumers to whom water is supplied outside the boundaries of the Village shall be subject to all of the rules and regulations herein, and such service may be terminated or disconnected in the same manner as for users within the Village.

E. Nothing contained in this section shall be construed to relieve the consumers of water outside the Village boundaries from any liabilities or obligations imposed by law upon resident users of water.

F. Nothing contained in this section shall be construed to give any person or persons the right or rights to water from the Village, and the granting of each right shall be by the Village Board.

ARTICLE 11. USE OF WATER-

A. Unless in actual use, all hydrants, taps, fixtures or other outlets must be securely shut off. Any unnecessary use of water is strictly prohibited.

B. If the Village Board at any time determines that an emergency exists threatening a shortage of water supply, the board may prescribe emergency rules for further regulation and restriction of the use of the water supply.

C. If in the judgment of the Board or Superintendent, an imminent health hazard or imminent danger to property exists, it may immediately cause service to the building or premises to be terminated and not restored until the defects are corrected.

D. The Board may notify the owner or authorized agent of the owner of the building or premises in which there is found a violation of this Law of such violation and shall set a reasonable time for the owner to have the violation removed or corrected. Upon failure of the owner to have the defect corrected by the end of the specified time interval, the Board may cause the water service to the building or premises or property to be terminated and not be restored until such condition or defects are corrected.

ARTICLE 12. PENALTIES FOR VIOLATION-

A violation of this local law, or any section thereof, or any part of any section thereof, shall be punishable by a fine not to exceed five hundred dollars (\$500.00), or imprisonment not to exceed three (3) months, or both such fine and imprisonment. Nothing herein contained shall prevent the Village Board of Trustees from enforcing obedience of this local law, or any part or section thereof, by seeking injunction from any court of competent jurisdiction, or in any other lawful manner.

ARTICLE 13. SAVING CLAUSE-

The invalidity of any clause, sentence, paragraph or provision of this local law shall not invalidate any other clause, sentence, paragraph or provision or part thereof.

ARTICLE 14. EFFECTIVE DATE-

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

RESOLUTION # 47
TABLE LOCAL LAW 1 OF 2011

Trustee Frick moved, second by Trustee Waite to Table Local Law 1 of 2011 until Public Hearing. VOTE: 4 AYES, 0 NAYS.

**RESOLUTION # 48
SET PUBLIC HEARING**

Trustee Frick moved, second by Trustee Waite to set Public Hearing for Local Law 1 of 2011 on April 6, 2011 at 7:30. VOTE: 4 AYES, 0 NAYS.

MAYOR LAZARONY'S REPORT: No report

CLERK ASTRY'S REPORT:

- Official Vote of the election held on March 15th was: Valerie Culverwell received 72 votes, Ronald Dechard received 79 votes and 2 Absentee votes, Rudy Abersold received 13 write in votes and Paul Mihalko received 1 write in vote. There were a total of 81 voters for the election.

TRUSTEE LEHNEN'S REPORT

- The Fire Dept. estimates a new ambulance at \$112,000 and will convert current ambulance to Rescue Utility truck instead of buying a new one at estimated costs of \$200,000.
- The Fire Dept. will be having siding installed at the Mill Street garage in the next few months.

SUPERINTENDENT TOM FETTER'S REPORT:

- He reported that the Dump Truck is leaking oil because inter front cover is cracked. Boyle Trucking's estimate is between \$3500-\$4000.

**RESOLUITON # 49
APPROVAL OF FINANCIAL STATEMENT**

Trustee Waite moved and seconded by Trustee Frick to approve the Financial Statement of March 16, 2011. VOTE: 4 AYES, 0 NAYS.

GENERAL FUND: \$ 102,970.58
WATER FUND: \$ 314,960.66
CAPITAL FUND: \$1,653,002.19
CAPITAL RESERVE \$ 60,618.66
CAPITAL RESERVE \$ 20,055.76

**RESOLUTION # 50
APPROVAL OF BILLS AND PAYROLL**

A motion was made by Trustee Waite, second by Trustee Frick to pay bills as per Abstracts of March 16, 2011 and Payroll of March 18, 2011. VOTE: 4 AYES, 0 NAYS

General Abstract March 16, 2011, checks 5304-5314	\$ 1,302.14
Water Abstract March 16, 2011 checks 5304-5314	\$ 2,034.49
Payroll March 18, 2011 General	\$ 2,391.76
Payroll March 18, 2011 Water	\$ 1, 589.33

Trustee Jeff Frick thanked everyone for their help on the board and will be volunteering for other things in the community, Mayor Lazarony thanked him and valued what he brought to the board and thanked him for his service to the community for the last 6 years.

Mayor Lazarony thanked Trustee Rodney Waite for his outstanding contributions to the water project and grateful for what he brought to the board and appreciate his service for the last 8 years.

Trustee Lehnen wanted to congratulate the Cassadaga Valley Cougars Basketball team for making it to the Regional's.

RESOLUTION #51

GO INTO EXECUTIVE SESSION

Trustee Lehnen moved, second by Trustee Frick to Go into Executive Session to discuss disciplinary action on an employee at 7:55. VOTE: 4 AYES, 0 NAYS.

It was decided that the Mayor would council Ron Matter regarding proper procedures on time off.

RESOLUTION #52

COME OUT OF EXECUTIVE SESSION

Trustee Lehnen moved, second by Trustee Waite to Come out of Executive Session at 8:08PM. VOTE 4 AYES, 0 NAYS.

Board worked on finalizing the budget and giving it to the Clerk.

RESOLUTION #53

SET TAX RATE

Mayor Lazarony moved, second by Trustee Dechard to set the tax rate for the 2011-2012 budget at \$4.25 with total taxes to be raised at \$134,322.95. The previous tax rate was \$4.80 per 1000.

RESOLUTION #54

SET PUBLIC HEARING ON BUDGET

Trustee Waite moved, second by Trustee Frick to set Public Hearing on proposed budget on April 6, 2011 at 7:45PM. VOTE: 4 AYES, 0 NAYS.

Being no further business Trustee Frick moved, seconded by Trustee Dechard to adjourn at 9:25 PM

Respectfully submitted,

**Roxanne Astry
Clerk Treasurer**