

SEPTEMBER 14, 2022

The regular meeting of the Village of Cassadaga was held on September 14, 2022, at 7:00 PM with Mayor William Dorman presiding. Trustees present included Bill Astry, Cindy Flaherty, and Rachyl Krupa. Also in attendance was Clerk Roxanne Astry, Attorney Joe Calimeri and Supt. Public Works Sam Alaimo. Absent Trustee Mark Wilson and Deputy Clerk Annette McChesney.

Pledge Of Allegiance

RESOLUTION # 101

APPROVAL OF MINUTES

A motion was made by Trustee Astry to approve minutes, second by Trustee Krupa minutes of AUGUST 24, 2022. VOTE: 4 AYES, 0 NAYS.

GUEST Fin Johnson, Eagle Scout. He presented to the board his proposed Eagle Scout Project for a Drowning Mitigation Station for Cassadaga Beach. He proposes 3 locations for the stations: Cassadaga Beach, DEC Boat Launch, Lily Dale Beach. They stations will include a stand, Emergency sign, ring buoy that is for emergency use only. The beach stand would be next to gazebo exterior and we would be responsible for upkeep after installation. He has permission for the other stations and will also be doing fundraising for this project. A personal donation was made by Judith Garncarek and Cassadaga Lakes Association will be doing fundraiser, Tom Beichner said that Robo will also make a donation and Post 1280 will donate and help. The project will be completed next spring.

RESOLUTION # 102

APPROVE EAGLE SCOUT PROJECT OF DROWNING MITIGATION STATION

Trustee Flaherty made a motion to approve the Drowning Mitigation Station presented by Finn Johnson, seconded by Trustee Astry. VOTE: 4 AYES, 0 NAYS.

GUESTS:

John Penhollow, 5575 Fenner Road, Sinclairville, Judith Garncarek, 182 Dale Drive, Brad Blizzard, 8020 Frisbee Rd, Danna Dubois, 5 Miller Place, tom Beichner, 85 Maple Ave., Jennifer Vahl 8442 Rt. 60, Regina Burlingame, 98 Maple Ave., Eleanor Nopper, 15 Lakeview, Nancy King-Rose, 11 Lakeview, Helen Runge, 21 Lakeview, Nancy Wickmark, 39 Pettit Place, Lorraine Courson, 166 Maple Avenue, Rodney Waite, 241 Dale Drive, Kent Marsh, 2962 Hooker Rd., Sinclairville and 69 Maple Ave., Ryan Burlingame, 153 Maple Ave., Kim Collins, 49 Lakeview and 88 Frisbee, Jill Lawson, 61 Lakeview, Dennis Collins, 55 Lakeview, Deborah Metzger, 134 Maple Ave.

GUEST COMMENTS:

Jennifer Vahl read letter from Mother Priscilla Newell, 79 So. Main stating that she has applied to County for short term rental on her 3 apartment building. She wants to know what else needs to be done to assure she can have one. Trustee

Flaherty stated that the moratorium would not affect her because she is in the business district.

Brad Blizzard wondered how residential districts can have long term rentals and not short term rentals.

Deborah Metzger stated this has become such a big issue and should take a step back and see what is happening. People have lost decency and respect for each other. Let's come together.

Tom Beichner stated all businesses are regulated and the board needs to have time to put zoning in place for short term rentals so no negative impacts and safeguard the neighbors.

Mayor Dorman stated that we have to look for the future and to avoid problems and just putting pause on new ones until zoning in place.

Judith Garncarek stated she appreciates the work the committee and board have done. People have applied for STR that would not have ordinarily and most visitors are here during summer only,

ATTORNEY JOE CALIMERI REPORT

- **He received the NYS Uniform Code and Energy Code: Minimum Standards for Administration and Enforcement that needs to be approved by Board. He will change wording for the Village Board and have it for next meeting.**

MAYOR DORMAN's REPORT – No report

CLERK ASTRY'S REPORT –

- **Letter read from Donna House in rebuke from previous letter read by Beth Burlingame.**
- **Thank you from Beth Oakes for use of beach for CASA.**
- **Reported that the Zoning Rewrite committee meeting time has been changed to 7:00 PM on Sept. 21st.**

DEPUTY CLERK MCCHESENEY – Absent

OLD BUSINESS

1. SHORT TERM RENTAL-MORATORIUM

RESOLUTION # 103

**Trustee Astry moved, seconded by Trustee Flaherty to remove Moratorium on Short Term Rental from the Table. VOTE: 3 AYES, ASTRY, FLAHERTY, DORMAN
NAYS: KRUPA**

Trustee Flaherty stated that she has listened to all sides and reviewed the Comprehensive Plan. The Zoning Rewrite committee met on Tuesday and realized that the STR section will not be completed in 30 days like they hoped. After speaking with a representative from the Local Government Specialist, Division of Local Government Services who strongly recommended that a

moratorium be put in place until we have language in place for zoning. This is to protect everyone.

RESOLUTION # 104

ENACT PROPOSED LOCAL LAW 1 OF 2022 FOR A MORATORIUM ON SHORT TERM RENTALS.

Trustee Flaherty moved, seconded by Trustee Astry to enact the proposed Local Law 1 of 2022 for a moratorium on Short Term Rentals. VOTE: 3 AYES; FLAHERTY, ASTRY, DORMAN. NAYS: KRUPA

**VILLAGE OF CASSADAGA
PROPOSED LOCAL LAW 1 OF 2022**

LOCAL LAW PLACING MORATORIUM ON SHORT TERM RENTALS

Be it enacted by the Board of Trustees of the Village of Cassadaga as follows:

Section 1. Short Title.

This local law shall be known and cited as the “Short-Term Rental Moratorium of the Village of Cassadaga, New York”

Section 2. Legislative Findings.

- A. The residential character of the Village of Cassadaga is a source of pride and economic stability for the Village and its residents.
- B. The recent trend of existing residential structures being used by owners for the primary purpose of renting to short-term rental occupants has created concern that the residential character and economic base of the Village is threatened. Changes in technology have given rise to new issues in land use planning and regulation, including those related to so called "vacation rentals." The Board of Trustees hereby finds that more specific zoning provisions are appropriate to address this increasingly popular land use activity and that short term vacation rentals create conflicts with their residential neighbors, and have the potential to degrade residential neighborhoods by introducing crime, noise, parking congestion, and other detrimental impacts while also adversely affecting the traditional neighborhood character that results from a community of owner-occupied properties. As such, the Board of Trustees finds that unregulated short term vacation rentals, or short-term rental occupancies as defined in this local law, may be incompatible with residential neighborhoods and zoning districts, and that such uses must be carefully regulated and monitored to minimize deleterious effects in residential zoning districts. This is particularly so in those situations where the property owner is not present during times of short-term rental occupancy.

- C. Unless reasonable measures are taken for an interim period to protect the public interest pending the completion of necessary surveys, studies, meetings, and required public hearings, further conversions of residential properties and establishment of new short-term rental uses may occur within the Village that may thereby:**
- (1) Preclude or otherwise undermine consideration and implementation of appropriate and salutary planning measures, including the amendment of the Village's Zoning Code, environmental review procedures, and other development regulations;**
 - (2) Permit significant variations in neighborhoods where the Village may wish to implement changes in the existing Zoning Code and such variations may impede or destroy the integrity of changes which may be proposed; and**
 - (3) Create conditions, or worsen existing conditions, which the Board of Trustees hereby finds to be detrimental to the public health, safety, and general welfare of Village residents.**
- D. It is the finding of the Board of Trustees that a review of the Zoning Code and Zoning Map is necessary to determine how to best regulate short-term rental occupancy uses within the Village so as to avoid adversely impacting residential districts and the community character in general, and that the review and possible revision of the Village Zoning Code as envisioned by this local law is necessary to protect the health, safety, and welfare of residents of the Village of Cassadaga.**

Section 3. Authority and Purpose.

The Board of Trustees of the Village of Cassadaga hereby adopts this Local Law pursuant to its general zoning authority under Article 4 of the Village Law for the purposes of addressing the potential threat to the public health, safety, and welfare described at Section 2 above.

Section 4. Definitions.

- A. For purposes of this Local Law, the term "short term rentals" shall be defined as "A residential property that is rented to a visitor for less than 30 days."**

Section 5. Intent.

It is the intent of the Board of Trustees to protect the public health, safety, and welfare by

enacting this interim moratorium law for a reasonable period. It is the purpose of this local law to allow the Village time to comprehensively review the uses that are within the scope of the moratorium so that adequate land use and regulatory controls may be presented for action by the Board of Trustees at or prior to the expiration of the period of the moratorium. During said period, the Board of Trustees, the Village Planning Board/Zoning Board of Appeals, and/or such other panel or body as may be designated by the Board of Trustees for this purpose shall complete an evaluation and assessment of existing land use plans and regulations for lands within the Village and make recommendations to the Board of Trustees as to potential amendments to address the potential threat to the public health, safety, and welfare described at Section 2 above. The Board of Trustees shall thereafter enact necessary modifications to the Village Zoning Code and/or Zoning Map. The Board of Trustees declares that the enactment of this local law is necessary to protect the public health, safety, and welfare.

Section 6. Regulations.

- A. Except as otherwise provided herein, effective on the effective date of this local law, and continuing 180 days from the effective date of this local law, unless the Board of Trustees, by resolution, establishes an earlier date, no newly created short-term rental occupancy use shall be established or expanded within the Residential District, Conservation District or Industrial District in the Village of Cassadaga, and no application for a permit, zoning permit, special permit, zoning variance, building permit, operating permit, demolition permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other Village-level approval shall be accepted, processed, approved, approved conditionally, or issued for the construction, establishment, or use or operation of any land, building, or other structure located within any of the aforesaid Districts for any land use activity that includes the establishment or expansion of a short-term rental occupancy use, either in a principal structure or any accessory structure. The prohibition referred to hereinabove shall not apply to short-term rental occupancy uses that were lawfully established prior to the effective date of this local law, nor to the issuance of building permits for structural repairs, renovations, or alterations which do not involve the expansion of an existing transient occupancy use or the establishment of a new short-term rental use.

- B. The Board of Trustees may, by resolution, extend the moratorium period provided for herein by two (2) additional periods not to exceed 180 days each.

Section 7. Supersession of Village Law.

The provisions of this local law, and any moratorium (and extension(s) thereof) enacted hereunder, shall supersede in their application to the Village of Cassadaga any and all contrary provisions of the Village Law, including, but not necessarily limited to, the provisions with respect to any time periods within which the Village or the Planning Board is required to act in regard to any application, and with respect to default approval of any such application within such time periods as may be prescribed in said Village Law.

Section 8. Penalties for Offenses.

Any person or entity acting in violation of the provisions of this local law shall be guilty of an offense punishable by a fine not to exceed two hundred and fifty dollars or imprisonment of not more than fifteen days, or both. Each day of continuance of a violation shall be considered a separate offense. In addition to such penalties, the Village of Cassadaga may enforce this local law by injunction and/or such other appropriate civil remedies as may be available.

Section 9. Repeal of Existing Laws.

All ordinances, local laws, or parts thereof in conflict with the provisions with this local law are hereby repealed to the extent necessary to give this local law full force and effect during the effective period.

Section 10.

If any portion, subsection, sentence, clause, or phrase of this local law is for any reason held invalid or unconstitutional by any court, such portion, subsection, sentence, clause, or phrase shall be deemed a separate, distinct, and independent provision, and such holding shall not effect the validity of the remaining portion of this local law.

Section 11.

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

2. BATHHOUSE AT BEACH-ARPA – Trustee Astry reported that he is working on the specs to go out to bid.

NEW BUSINESS:

1. BUDGET ADJUSTMENT
2. REQUEST FOR ABATEMENT OF TAX PENALTY
3. TRANSFER FUNDS TO RESERVE ACCOUNTS

Clerk Astry asked permission to make the following budget adjustments

Increase A.5110.200 Street Eq. by \$10,000

Decrease A.5110.400 Streets contractual by \$10,000

Increase A.3501 Chips Revenue by \$21,461

Increase A.5112.200 CHIPS expenditures by \$21,461

Increase A.1410.100 Deputy Clerk Personal by \$5,500

Decrease A.1990.400 Contingency by \$5,500

Increase F.8310.110 Deputy Clerk (Water fund) by \$2,000

Decrease F.8310.400 Administration Cont. by \$2,000

RESOLUTION # 105

APPROVE BUDGET ADJUSTMENTS

Trustee Flaherty moved, seconded by Trustee Astry to approve Clerk Treasurer's request for budget adjustments listed above. VOTE: 4 AYES, 0 NAYS.

Clerk Treasurer Astry read letter from Jeff and & Karie Kozak asking to have tax penalty waived on 166 Dale Drive because they received tax late and have always paid bills promptly.

Clerk Astry explained that she received request from Attorney for tax certificate on May 13, 2022 and was submitted. Tax bills from County still had previous owner Tatyana Hill as owner. Both the water bills and taxes for the Village were mailed to everyone on May 31st. Delinquent notices on water and taxes were mailed August 2, 2022, and Tatyana Hill called and said that tax should be sent to new owner, Jeff Kozak. Tax was sent to him on 8/19/22 and he called stating he didn't think he should pay penalty. At this time, he had not called to ask to have water switched to his name either. I asked why he didn't call and ask about tax at this property when he paid tax on Maple Ave. property. Clerk Astry stated that she is not allowed to abate a penalty without board approval, and it is up to them to decide. Attorney Calimeri stated that it is up to the Attorneys to follow through and this particular incident is not either clerks or owners' fault but by granting this you could set a precedent.

RESOLUTION # 106

DENY APPEAL OF TAX PENALTY

Trustee Astry moved, seconded by Trustee Flaherty to deny the appeal of Jeff and Karie Kozak for penalty of \$42.28 on tax on 166 Dale Drive. VOTE: 4 AYES, 0 NAYS.

Clerk Treasurer Astry asked board permission to budgeted transfer of \$10,000 from general checking to Reserve for DPW equipment and Reserve for CVFD Equipment for \$10,000. VOTE: 4 AYES, 0 NAYS.

SUPT. OF PUBLIC WORK REPORT: SAM ALAIMO

- Reported that Lakeview, Pettit Place and Miller Place will be paved tomorrow.**

- Reported that the 2008 Plow truck is in really bad shape and doesn't feel it will make another year. He wants permission to purchase a new truck. Some manufacturers are not making them right now unless an order has been placed. He contacted Jones Chevrolet Buick GMC in Warren, Pa. they have a 2023 GMC 3500 Sierra that will be built October 24th at cost of \$45,997. West Herr in Hamburg had a 222 Fort F-250 pick up truck that he was interested in for \$47,482.43 but they just sold it. Warren Midtown Motors, Inc. from Warren, Pa. has a 2022 Ford F250 with snowplow prep and plow for \$53,335 in stock. They gave discount of \$8,100 and plow trade in of \$3,000. Proposes that he uses \$15,418.93 from DPW Reserve, \$15,000 from Eq. budget and balance from CHIPS \$22,916.97

RESOLUTION # 107

PURCHASE NEW DUMP TRUCK

Trustee Astry moved to purchase a 2022 Ford F250 pickup truck from Warren Midtown Motors in the amount of \$53,335. VOTE: 4 AYES 0 NAYS.

RESOLUTION # 108

TRANSFER MONEY FROM RESERVE FOR DPW TO CHECKING

Trustee Astry moved, seconded by Trustee Flaherty to transfer \$15,418.93 from Reserve for DPW equipment to general checking for new truck. VOTE: 4 AYES, 0 NAYS.

TRUSTEE ASTRY'S REPORT

- Will continue working on specs for bathhouse.

TRUSTEE FLAHERTY'S REPORT

- Wanted to thank Annette for the wonderful parade. The Labor Day Festival went well and wanted to thank the Fire Department for use of hall for the concerts this summer when we had rain.

Beach Report 2022 - 3624 (2021 - 2978) (2020 – 3153) (2019 -3298)

- **Event attendance estimated total – over 1450 (not counting Wilson Endurance Sports events)**
 - CAP Run - 50
 - Strawberry Social – 150
 - Ozone Rangers – moved to firehall
 - OsbornNash - 400
 - Worship on the Beach - 150
 - Acoustic Ear Candy – 150
 - Ion Sky - 350
 - Dave Golando Big Band – moved to firehall
 - 2nd Street Sunset – moved to firehall
 - Community Picnic – 100
 - Bike/Run/Walk Dice Roll – 44 plus volunteers – 55
 - Moonlight Paddle - 50

- Plus Triathlons (4), trainings, Frickin' Hot 50, Kids Triathlon, Cassadaga Man

Over 5000 people at the beach this summer, not counting races!

- Swim lessons – 75 signed up, around 60 attended regularly.
- Vandalism/incidents – 0
- Injuries 0
- rescues – one
- Recreation – The Wrap 5 times, Sinclairville Rec. 3 times

THANK YOU:

- CLA repairs and preservative to Floating Stage.
- DPW – grounds looked great. Drainage system
- Rox – continued assistance.
- Anonymous, Cynthia Mullen, Patti McCarthy – donations
- Tammie Wichlacz and family – great job as beach director and much more.
- Lifeguards – great job!

Upcoming Events on the Beach:

- KBR Triathlon – Sept. 17
- Beach total this season up to 3,624, 640 more than last year. Thanks, Tammy, for a wonderful season
- Had two bees' nests removed
- Asked community if you notice anything amiss, please let her know
- Last event 09/17 before winterization and DPW remove dumpster, speed bumps, stop signs. Grills still need installed.
- Read results from interview survey on STRs, (on file in office)
- Reported that she received complaints of loud party on Lakeview until 3AM on August 18th.
- Cruise Night Legion August 30th
- Labor Day Festival all weekend
- September 7th Triathlon
- September 10th Full Moon paddle Beach
- September 17, KBR Triathlon
- Zoning committee want written direction from BOT on what they should do

TRUSTEE KRUPA'S REPORT –

- Tree committee meeting met, and we will be sending letters to residents on High Street, South Main Street and Maple Avenue from Miller to Frisbee asking if they are interested in a tree.

- Would like to see the Village decorated for Halloween and Ames Common.

TRUSTEE WILSON’S REPORT – Absent

Clerk Astry made statement on the Moratorium. She said that no one is against short term rentals and the Moratorium protects everyone. She spoke with Patricia Burke from the Local Government Specialist, Division of Local Government Services who strongly recommended that a moratorium be put in place until we have language in place for zoning. At some point the committee and then the Board of Trustees will review the Short-Term Rental recommendations and a cap of some sort will be put on how many are allowed whether it be a percentage or a number. Is it fair that someone who wants to have a short term rental in the future will be denied because that cap has already been met or have to wait in line? This is the statement that she made that really stuck with me.

RESOLUTION # 109

APPROVAL OF FINANCIAL STATEMENTS

Trustee Astry moved, seconded by Trustee Krupa to approve the financial reports for August 31, 2022. VOTE: 4 AYES, 0 NAYS.

GENERAL FUND 8/31/22	\$ 384,087.76
WATER FUND 8/31/22	\$ 57,447.22
GENERAL FUND 9/14/22	\$ 379,040.81
WATER FUND 9/14/22	\$ 56,492.08
RESERVE CVFD EQ.	\$ 26,582.28
RESERVE DPW EQ.	\$ 27,858.63
RESERVE WATER REPAIRS	\$ 50,277.52
RESERVE FOR DEBT SERVICE	\$ 282,997.24

RESOLUTION # 110

APPROVAL OF BILLS AND PAYROLL

A motion was made by Trustee Astry, seconded by Trustee Flaherty to approve the bills and payroll as follows: 4 AYES, 0 NAYS.

PAYROLL General Fund, Sept. 2, 2022, cks: 5827-5832	\$ 8,217.68
PAYROLL Water Fund, Sept. 2, 2022, cks: 5827-5832	\$ 2,196.09
PAYROLL General Fund, Sept. 16, 2022 cks: 5833-5840	\$ 8,926.75
PAYROLL Water Fund Sept. 16, 2022, cks: 5833-5840	\$ 2,115.35
ABSTRACT September 14, 2022 General Cks: 9643-9654	\$ 7,098.27
ABSTRACT September 14, 2022, Water Cks: 9643-9654	\$ 405.89

Being no further business, Trustee Astry moved to adjourn at 8:04 PM, seconded by Trustee Krupa. VOTE 4 AYES, 0 NAYS.

**Respectfully Submitted,
Roxanne Astry
Clerk Treasurer**