

February 14, 2011

Board of Trustees

Proceedings by Authority

State of New York
Village of Celoron
Community Center

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The regular meeting of the Board of Trustees of the Village of Celoron, New York was held on Monday, February 14, 2011 at 7:00 P.M.

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

Others Present: Village Clerk-Treasurer Shirley A. Sanfilippo, MMC, Highway Superintendent Terry Schrecengost, Dennis Phillips of The Post-Journal and 13 members of the public.

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 welcomed everyone to the meeting. He stated that their participation in government is very important. He noted that openness and transparency in government is a two-way street. He reviewed the options available to the Village for dealing with the deer problem. He then went over the time line of what transpired with the herd management as authorized by the NYS DEC. He read the permit stipulations.

OPPORTUNITY FOR PUBLIC COMMENT:

Sue Schrecengost, 22 Butler Avenue, spoke in favor of the herd management program and stated she was appreciative of the efforts of the Village. She now sees only about 2 or 3 deer occasionally.

Martha Korcyl, 8 Rowley Court, spoke in favor of the herd management program and expressed her appreciation.

Lew Milliner, 8 Rowley Court, spoke in favor of the herd management program and expressed his appreciation to the Village for their efforts.

Sue Ellen Nelson, Dunham Avenue, inquired about the condition (health) of the deer.

Trustee Schrecengost advised that tests were being run and the results had not come back yet.

Mayor Keeney responded that 40% of the deer had evidence of broken bones.

Paul Shanahan, Maple Street, stated that he felt the program was necessary, although unpleasant. He thanked the board for governing with common sense.

APPROVAL OF MINUTES:

Trustee Mattison motioned, seconded by Trustee Young to approve the minutes of the Regular Meeting of January 10, 2010.

Carried: 5 ayes

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COMMITTEE REPORTS

PUBLIC SAFETY – Trustee Kogut presented the monthly report from the Code Enforcement Officer. Trustee Young inquired about the status of 25 Boulevard Avenue. No information had been received. She expressed disappointment that nothing had been done.

ANIMAL CONTROL – Trustee Schrecengost said that the Village is looking for a Dog Control Officer.

PARKS & RECREATION – Trustee Young – none

HIGHWAY AND EQUIPMENT – Trustee Mattison and Highway Superintendant Schrecengost advised that one of the trucks was due for inspection and needed brake work.

ZONING & PLANNING – Trustee Schrecengost advised that there would be a training session on February 16, 2011 at 7:00 p.m. for the Zoning and Planning Board members in the Community Center. The Board accepted with regret the resignation of Sally Mlacker from the Planning Board.

SANITATION – Trustee Mattison stated that there would be a special meeting of the Board of Trustees to approve the Bond Anticipation Note for the garbage truck on Tuesday, February 22, 2010 in Village Hall.

BUSINESS – Trustee Kogut – none

CORRESPONDENCE – Clerk Sanfilippo reviewed the following correspondence:

1. Notification from Time Warner Cable of possible network changes and the movement of networks from standard to digital channels.
2. E-mail from Troy Weldy, Director of Ecological Management for the Nature Conservancy on the deer problem and commending Celoron for taking action.
3. The following correspondence:

New York State Department of Environmental Conservation
Office of General Counsel, Region 9
270 Michigan Avenue, Buffalo, New York 14203-2915

February 4, 2011

John M. Keeney, Mayor
Village of Celoron
21 Boulevard Avenue
PO Box 577
Celoron, NY 14720-0577

Dear Mayor Keeney,

I am writing in reply to your recent phone call to our office regarding the authority of a town or village to ban or regulate hunting. New York State's Constitution, Article IX, §2(c), and Municipal Home Rule Law, §19(1)(ii)(a)(12), authorize local governments to adopt laws that are consistent with New York's Constitution or any general laws of the State. Environmental Conservation Law (ECL) §11-0303 provides that "the general purpose of powers affecting fish and wildlife, granted to the Department by the Fish and Wildlife Law, is to vest in the Department ...the efficient management of the fish and wildlife resources of the State." Based on this authority, Article 11 of the ECL sets forth a comprehensive and detailed plan for managing the fish and wildlife of the state, including hunting and fishing regulations. Therefore, a local law that prohibits hunting is inconsistent under the New York Constitution and Municipal Home Rule Law because the general law found in ECL Article 11 preempts the local law. However, local governments do have the power to enact local laws that

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relate to the "protection, order, conduct, safety, health and well-being of persons or property." State courts have ruled that local government regulation of weapons falls within this "police power." Consequently, a local government can restrict or ban the use of weapons, but it cannot directly regulate or ban hunting.

Please contact me if you have any questions.

Very truly yours,
Maureen A. Brady
Regional Attorney

FINANCE – Entire Board/Clerk

Mayor Keeney reminded the Trustees and Administrators that the budget requests and revenue estimates were due back to him by March 1st.

The Mayor asked for approval of Abstract #16 in the amount of \$29,511.04, Check #9720 to 9737 dated January 11-31, 2011; Abstract #17 in the amount of \$16,757.06, Check #9738 to 9755, dated February 1-14, 2011.

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

Carried: 5 ayes

AUDIT – Trustee Mattison had no report.

Trustee Schrecengost moved, seconded by Trustee Mattison to authorize the Mayor to send information to New York State Attorney General Eric T. Schneiderman on the inconsistencies found by the New York State Comptroller's Office in the recently completed audit and other inconsistencies found by the current administration for his review and possible action, as well as send any additional material not found in the audit to the Chautauqua County District Attorney.

Carried: 5 ayes

INSURANCE – Trustee Young – none

BUILDING – Trustee Young – none

SPECIAL EVENTS – Trustee Mattison stated that a movie will be shown tomorrow in the Community Center for Seniors.

Trustee Mattison moved, seconded by Trustee Schrecengost to approve the use of portions of Lucille Ball Memorial Park and Dunham Avenue for the Celoron Rib-Fest to be held on June 8, 9, 10 & 11, 2011 for a permit fee of 20% of the net profits up to a maximum of \$2,000.00

Carried: 5 ayes

OLD BUSINESS

None

NEW BUSINESS

PROCLAMATION

- WHEREAS** the Celoron Hose Company No. 1 is organized as a volunteer fire company to protect the Celoron Fire District, and
- WHEREAS** on Christmas Day, December 25, 2010, a fire was reported at 25 Boulevard Avenue in the Village of Celoron, and
- WHEREAS** the Celoron Hose Company No. 1 responded with assistance from the Jamestown Fire Department, the Lakewood Fire Department and the Busti Fire Department, and
- WHEREAS** these four fire companies quickly brought the fire under control without injury or additional property loss, and
- WHEREAS** members of the Celoron Hose Company No. 1 arrived shortly after noon and remained on scene until late into the evening, and
- WHEREAS** the men and women of the Celoron Hose Company No. 1 missed either in part or in total their family Christmas activities and meal, and
- WHEREAS** the Village of Celoron is very grateful for the services provided to the community by Celoron Hose Company No. 1,

NOW, THEREFORE, I, John M. Keeney, Mayor of the Village of Celoron, on behalf of the Board of Trustees of the Village of Celoron and all Village of Celoron residents do hereby proclaim the Celoron Hose Company No. 1 as our Christmas Day Heroes.

In Witness Whereof, I have hereunto set my hand and caused the seal of the Village of Celoron to be affixed on this 14th day of February, 2011.

John M. Keeney
Mayor

PROCLAMATION

- WHEREAS** on Christmas Day, December 25, 2010, a fire broke out at 25 Boulevard Avenue in the Village of Celoron, and
- WHEREAS** Kenneth Goodban, a tenant of 25 Boulevard Avenue was alerted to the fire in his apartment building, and
- WHEREAS** Kenneth Goodban was called to the assistance of a friend and fellow tenant who was trapped in the burning building, and
- WHEREAS** Angelo Rivera was driving along Boulevard Avenue in the Village of Celoron, and
- WHEREAS** Angelo Rivera responded to the call for assistance to rescue the individual who was trapped in the burning building, and
- WHEREAS** Kenneth Goodban and Angelo Rivera successfully rescued Anthony Antonuccio from the burning building, and
- WHEREAS** the assistance of a friend and neighbor and the response to the call for assistance to a fellow man is an act of great kindness and bravery, and
- WHEREAS** Kenneth Goodban and Angelo Rivera were willing to act in the face of great danger,

NOW, THEREFORE, I, John M. Keeney, Mayor of the Village of Celoron, on behalf of the Board of Trustees of the Village of Celoron and all Village of Celoron residents do hereby proclaim that for now and forever Kenneth Goodban and Angelo Rivera will be honorary citizens of the Village of Celoron and special friends to the entire community.

In Witness Whereof, I have hereunto set my hand and caused the seal of the Village of Celoron to be affixed on this 14th day of February, 2011.

John M. Keeney
Mayor

RESOLUTIONS

Resolution #24 – 2010-11

WHEREAS, Chapter 11 of the Village of Celoron Code prohibits open containers of alcoholic beverages on the Village property unless authorized in advance by the Board of Trustees, and

WHEREAS, it is desirable and appropriate to allow the limited consumption of alcoholic beverages at the Celoron Village Park in connection with the Rib-Fest scheduled for June 8, 9, 10, & 11, 2011, it is therefore

RESOLVED, That the Board of Trustees hereby authorizes open containers of alcoholic beverages at the Celoron Village Park in connection with the Rib-Fest scheduled for June 8, 9, 10, & 11, 2011, in accordance with the following terms and conditions:

1. No alcoholic beverages shall be sold, delivered, given away, or allowed to be consumed or in the possession of:
 - a. Any person actually or apparently under the age of 21 years old
 - b. Any person who is actually or apparently intoxicated
 - c. Any person who is loud, obnoxious, belligerent, or otherwise behaving in an inappropriate manner
2. No alcoholic beverages shall be consumed or in the possession of any person except in the area specifically designated by the Village of Celoron for such purpose.
3. Only alcoholic beverages sold by the Celoron Rib-Fest Committee may be consumed or in the possession of any person; no privately supplied alcohol can be consumed or in the possession of any person, including specifically any coolers or other alcoholic beverages of any kind.
4. The Celoron Rib-Fest Committee must have a duly approved alcohol license in advance of the event, a copy of which must be provided to the Village Clerk.
5. The Celoron Rib-Fest Committee must have Dram Shop insurance and public liability insurance of at least \$1 million, which insurance must name the Village of Celoron as additional named insured for the purposes of coverage but not the payment of premium, and it is further

RESOLVED, That any person who fails to comply with the terms and conditions of this Resolution shall be in violation of Chapter 11 of the Village of Celoron Code, punishable by a fine not exceeding \$250.00 for each offense, and upon conviction shall be guilty of disorderly conduct.

Trustee Schrecengost moved, seconded by Trustee Kogut to approve the resolution.

Carried: 5 ayes

LOCAL LAW TO BE PRESENTED:

LOCAL LAW NO. 1 OF 2011

**A LOCAL LAW REPEALING
LOCAL LAW NO. 1 OF 2000 ADOPTED
ON MAY 8, 2000**

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 §7-725a of the New York State Village Law, as follows:

1. **Intent.** Local Law No. 1 of 2000 is hereby repealed in its entirety.

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

The Local Law was tabled until the March 14, 2011 Board Meeting. A Public Hearing on the local law was scheduled for Monday, March 14, 2011 at 6:45 p.m. in the Community Center, 47 Dunham Avenue, Celoron, New York.

OPPORTUNITY FOR PUBLIC COMMENT:

Brian Westerdaahl, 20 Jackson Avenue, expressed concerns over the flooding on Jackson Avenue.

Mayor Keeney responded that the Village was looking into the problem.

Sue Ellen Nelson, Dunham Avenue, stated that it was her observation there was more traffic on Dunham Avenue at 5th Street and they were driving too fast. She suggested a "Children at Play" sign.

MAYOR'S COMMENTS:

Mayor Keeney admonished an anonymous newspaper blogger who posted untrue and derogatory comments about a Trustee and the Trustee's family.

Trustee Kogut motioned to adjourn the meeting. Trustee Mattison seconded the motion.

Carried: 5 ayes

The meeting was adjourned at 7:44 p.m.

Shirley A. Sanfilippo, MMC
Village Clerk-Treasurer